

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1120

Citations Affected: IC 4-4-30-5; IC 4-13-1-4; IC 4-33-12.5; IC 5-1-17; IC 5-28-15; IC 6-1.1; IC 6-3.1-7-7; IC 6-3.5-7-5; IC 6-3.5-7-13.1; IC 6-6-9.7-7; IC 6-6-9.7-12; IC 6-8.1-1-1; IC 6-9; IC 7.1-3-20-16; IC 7.1-3-20-16.1; IC 8-9.5-9-2; IC 8-15-2; IC 9-13-2-170; IC 9-18-49; IC 9-29-5-38; IC 13-21-13-2; IC 16-44-2-18; IC 16-44-2-18.5; IC 21-2-21-1.8; IC 20-12-1-2; IC 20-26-5-22.5; IC 22-4-37-3; IC 36-7-31.3-9; IC 36-7.5; IC 36-9-3-2; IC 36-10-9-6; IC 36-12-7-8; IC 6-9-12-9.

Synopsis: State and local finance matters. Establishes the Indiana stadium and convention building authority (SCBA) to acquire, construct, equip, own, lease, and finance facilities for lease to or for the benefit of a capital improvement board. Prohibits the SCBA from issuing bonds unless: (1) each contract for the construction of any facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage; and (2) certain requirements with respect to seat licenses, ticket prices, and resale of tickets are met with respect to a football stadium. Authorizes the Indianapolis city-county council to increase the rates of the: (1) county supplemental auto rental excise tax; (2) county innkeeper's tax; (3) county food and beverage tax; and (4) county admissions tax; and provides that the resulting increased revenue is to be distributed to the Marion County capital improvement board for use in paying debt service on certain obligations issued by the SCBA. Authorizes the counties contiguous to Marion County, and certain municipalities located in those counties, to adopt a food and beverage tax. Authorizes the SCBA and the development finance authority to enter into swap agreements. Authorizes the budget director to increase the amount of state tax revenue that is annually captured by the Marion County professional sports development area. Prohibits the expansion of the Marion County professional sports development area except with respect to the site of a facility to be financed by the SCBA. Prohibits the expansion of a professional sports and convention development area in other counties. Repeals the current law concerning termination of the Marion County food and beverage tax. Authorizes the town of Avon and the city of Martinsville to adopt an ordinance to impose a food and beverage tax under its own law. Authorizes the Indiana development finance authority (IDFA) to issue bonds and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development authority (development authority). Provides that Lake County shall distribute 25% of the admissions tax revenue received by the county to certain municipalities in the county. Provides that the distributions are based on the population of the municipalities. Provides that a municipality may use the revenue distributed by the county only for infrastructure purposes. Establishes the development authority in Lake County and Porter County. Provides that the

development authority is governed by a board consisting of individuals appointed by the governor, jointly by the Lake County commissioners and council, jointly by the Porter County commissioners and council, and by the mayors of Gary, Hammond, and East Chicago. Provides that one of the members appointed by the governor is appointed from three individuals nominated by the mayor of Portage or the mayor of Valparaiso (with the power to make the nominations changing every four years). Requires the fiscal officer of each city and county that appoints a member to the board (other than the member appointed on nomination of Portage or Valparaiso) to transfer \$3,500,000 annually to the development authority from any of the following sources: (1) Riverboat admissions taxes, riverboat wagering taxes, or riverboat incentive payments received by the city or county. (2) Any county economic development income tax revenue received by the city or county. (3) Any other local revenue other than property tax revenue received by the city or county. Requires the development authority to submit to the budget committee and to the director of the office of management and budget for approval a comprehensive strategic development plan. Authorizes the development authority to: (1) make loans, loan guarantees, and grants to or on behalf of a commuter transportation district, an airport authority, an airport development authority, a regional bus authority, and a shoreline development commission; (2) issue bonds (only to IDFA); (3) lease land or projects to a commuter transportation district, an airport authority, an airport development authority, a regional bus authority, or a shoreline development commission; (4) use the development authority's funds to match federal grants; and (5) take other actions to carry out its purposes. Requires the development authority to comply with the common construction wage law, the public purchasing laws, the public work projects laws, and any applicable federal bidding statutes and regulations. Requires a political subdivision that receives a loan, grant, or other financial assistance from the development authority to comply with applicable federal, state, and local public purchasing and bidding laws and regulations. Provides that, subject to the trust agreement of any outstanding bonds, the Indiana transportation finance authority (finance authority) shall distribute to the development authority in 2006 and 2007 from revenues accruing from the toll road at least \$5,000,000 and not more than \$10,000,000 each year (as determined by the finance authority). Specifies that the distributions may be made only if all participating local units have made the required contributions to the development authority. Provides that after 2007 the finance authority may distribute to the development authority amounts from revenues accruing from the toll road. Provides that these distributions may be made only if all participating local units have made the required contributions to the development authority, the budget committee has reviewed the development authority's comprehensive strategic development plan, and the director of the office of management and budget has approved the comprehensive strategic development plan. Eliminates the requirement that the finance authority may finance or develop improvements only within ten miles on either side of a toll road. Eliminates the requirement that the tolls for any class of traffic shall be substantially uniform according to the mileage between interchanges. Provides that if Porter County increases its county economic development income tax rate, the first \$3,500,000 of the tax revenue that results each year from the rate increase and is received by the county shall be used by the county to make the county's required transfer to the development authority. Allows county economic development income tax revenue received by Lake County, Porter County, or a municipality in Lake County or Porter County to be used to provide additional homestead credits. Allows the Lake County council to impose a 1% food and beverage tax in Lake County. Allows the Porter County council to impose a 1% food and beverage tax in Porter County. Provides that the food and beverage tax revenue is distributed to the development authority. Specifies that any food and beverage tax revenue distributed to the development authority is not part of either county's required transfers to the development authority. Renames the regional transportation authority in Lake County as a regional bus authority. Requires rules of the department of local government finance to include instructions for: (1) determining the true tax value of certain mobile homes in a prescribed manner; and (2) determining the true tax value at the time of acquisition of computer application software for the purpose of deducting that value from the true tax value of taxable personal property. Provides a property tax deduction for a building if materials made from coal combustion products are systematically used in the building's construction. Expands the time during the year when the county treasurer may enforce delinquent personal property taxes. Requires a creditor that acquires and transfers certain personal

property on which the creditor holds a lien and on which personal property taxes have been adjudicated delinquent to pay all or part of the delinquency from the proceeds of the transfer according to a formula that apportions the proceeds between the lien amount and the delinquency amount. Allows a creditor to deduct from the proceeds of the transfer any direct costs of the transfer before applying the formula. Allows money in the enterprise zone fund to be used to pay administrative expenses of local urban enterprise associations (UEAs). Establishes the enterprise zone investment deduction, which allows a taxpayer who makes a qualified investment to obtain a deduction against the assessed value of a taxpayer's enterprise zone property located in an enterprise zone. Requires the department of state revenue to annually compile and report to the Indiana economic development corporation (IEDC) information on the enterprise zone loan interest credit. Adds the new deduction and the loan interest credit to the list of incentives that make a zone business subject to the requirement to pay a registration fee to the state enterprise zone board and to assist a local UEA. Provides that Miami County may increase the county option income tax rate by 0.25% over the current maximum rate to finance a county jail. Provides that Howard County may increase the county option income tax rate by 0.25% over the current maximum rate to operate a county jail or juvenile center. Authorizes the Evansville city council to impose a supplemental auto rental excise tax in Vanderburgh County. Permits Tippecanoe County to increase its innkeeper's tax from 5% to 6%. Authorizes Hendricks County to impose an innkeeper's tax to replace the innkeeper's tax it currently imposes under the uniform innkeeper's tax law. Authorizes Wayne County and, under certain conditions, municipalities in Wayne County to impose a food and beverage tax. Allows the alcohol and tobacco commission to issue ten three-way, two-way, or one-way alcoholic beverage permits under certain conditions to restaurants located: (1) in a historic district in a city or town; or (2) not more than 500 feet from the historic district; if the historic district meets certain requirements. Requires the bureau of motor vehicles to issue professional football team license plates. Requires the controller of a solid waste management district to deposit and invest the district's money in the same manner that other county money is deposited and invested. Increases the oil inspection fee from \$0.008 to \$0.01 per gallon (40 cents to 50 cents per 50 gallon barrel) and adds "special fuel" (diesel fuel) to the list of petroleum products subject to the fee. Authorizes the use of state and university owned property free of charge as locations for making motion pictures. Allows a school corporation to form a foundation to hold grants, gifts, and certain other money received by the school corporation. Provides that a school corporation that did not issue bonds to cover retirement or severance liability under a prior statute (which was repealed on December 31, 2004) or that issued bonds under the prior statute before April 14, 2003, may issue bonds one additional time for that purpose. Provides that the bonds are not subject to the petition and remonstrance process. Authorizes the department of workforce development (DWD) to establish an employer contribution rate not to exceed 3.5%, if the state becomes responsible for administering the Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.) as a demonstration project. Authorizes the DWD to increase the employer contribution rate by an additional 0.8% for the year in which the state assumes this responsibility. Allows a county library board to levy a property tax and distribute the tax to a private donation library under certain conditions. Provides that the provisions authorizing the IEDC to administer the EDGE tax credit and the Hoosier business investment tax credit take effect on February 9, 2005 (the date the EDGE board was abolished) instead of July 1, 2005. Requires the legislative body of each unit that contains the geographic area of an enterprise zone to adopt a resolution recommending the continuation or termination of the zone and provides that the zone terminates on December 31, 2005, if the legislative body recommended termination. Requires Ivy Tech State College to enter into a lease of certain property in Fort Wayne. Makes an appropriation to Ivy Tech State College for A&E expenses for planning the Logansport campus. Requires the gaming commission to study alternative forms of gaming to determine if they would be beneficial for Indiana. Allows a county fiscal body to apply a property tax credit over four years for a homestead that had an excessive tax increase in the last general reassessment. Specifies that the amount of the credit is a percentage of that increase. **(This conference committee report: (1) makes numerous changes to the stadium and convention center financing provisions; (2) provides that revenue from the Vanderburgh County supplemental auto rental excise tax is to be used by the city council for capital improvements in Evansville that promote conventions, tourism, or recreation;**

(3) inserts provisions concerning: (a) the Lake and Porter County development authority provisions; (b) the authorization for Miami and Howard County to increase their county option income tax rates; (c) the Wayne County food and beverage tax; (d) the House passed version of SB 460 concerning bonds for school corporation retirement liabilities; (e) liens on personal property; (f) the property tax levy for the Willard Library; (g) alcoholic beverage permits; (h) professional football team license plates; (i) adjustment of employer contribution rates by DWD; (j) leasing of property by Ivy Tech State College; (k) the appropriation to Ivy Tech State College; (l) the gaming commission study of alternative forms of gaming; (m) the optional county homestead credit; (n) solid waste management district investments; and (o) rules of the department of local government finance for determining the true tax value of mobile homes and computer application software; and (4) deletes provisions concerning: (a) the utility receipts tax; (b) assignability of the enterprise zone investment cost credit; (c) increase of cigarette tax rate; (d) restructuring of local option income taxes; (e) recapture of local riverboat gaming revenues; (f) provisions concerning tax abatement and tax increment financing; (g) sales tax exemptions for research and development equipment and motor sports equipment; and (h) changes to the venture capital investment tax credit and the Hoosier business investment tax credit.)

Effective: Upon passage; May 15, 2005; July 1, 2005; January 1, 2006.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1120 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation and to make an appropriation.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 4-4-11-15.6 IS ADDED TO THE INDIANA CODE
- 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 7 MAY 15, 2005]: **Sec. 15.6. In addition to the powers listed in section**
- 8 **15 of this chapter, the authority may:**
- 9 **(1) issue bonds under terms and conditions determined by the**
- 10 **authority and use the proceeds of the bonds to acquire**
- 11 **obligations issued by any entity authorized to acquire, finance,**
- 12 **construct, or lease capital improvements under IC 5-1-17; and**
- 13 **(2) Issue bonds under terms and conditions determined by the**
- 14 **authority and use the proceeds of the bonds to acquire any**
- 15 **obligations issued by the northwest Indiana regional**
- 16 **development authority established by IC 36-7.5-2-1.**
- 17 SECTION 2. IC 4-4-11-16 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 16. (a) There is
- 19 created an industrial development project guaranty fund which shall be
- 20 used by the authority as a nonlapsing, revolving fund for carrying out
- 21 the provisions of the guaranty program. The industrial development
- 22 project guaranty fund shall consist of such money as may be
- 23 appropriated by the general assembly. To this sum shall be charged

those expenses of the authority attributable and allocated by the authority to the authority's guaranty program, including interest, principal, and lease payments required by loan or lease defaults under the authority's guaranty program, and to the sum shall be credited that income of the authority attributable and allocated by the authority to the authority's guaranty program, including guarantee premiums.

(b) If the authority makes a written finding that the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the loan or lease, and if the authority shall further find that the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms, the authority may, under its guaranty program, guarantee the loan or lease upon such terms and conditions as the authority may prescribe. No new or additional guarantee of a loan or lease under this subsection or subsection (c) or (h) may be entered into if the guarantee would cause the outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this subsection and subsections (c) and (h) to exceed eight (8) times the amount of money in the industrial development project guaranty fund. The amount of all guarantees by the authority of loans or leases to or for the benefit of any single industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products shall not exceed two million dollars (\$2,000,000), less the outstanding aggregate principal balance under any loans made and owed to the authority under subsection (h) to or for the benefit of the project or operation. A guarantee of either a loan secured by real estate or a real estate lease shall not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, or ninety percent (90%) of the appraised fair market value of the real estate, whichever is less. A guarantee of a loan secured by personal property or of a personal property lease shall not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, or seventy-five percent (75%) of the fair market value of the personal property, whichever is less. A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property. To be eligible for a guarantee under this ~~section~~, **subsection**, a loan or lease must:

- (1) be one which is to be made to and held by a lender or lessor approved by the authority as responsible and able to service the loan or lease properly;
- (2) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the authority;
- (3) have a maturity or term satisfactory to the authority but in no case later than twenty (20) years from the date of the guaranty;

(4) contain payment terms satisfactory to the authority requiring periodic payments by the developer or user which shall include principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and such guarantee premiums as may be fixed by the authority; and

(5) contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the authority may prescribe.

(c) The authority may guarantee an unsecured loan for:

(1) working capital purposes, if the authority determines, under criteria that it establishes, that the loan for working capital:

(A) is for an industrial development project, a mining operation, or an agricultural operation that involves the processing of agricultural products; and

(B) will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government, private businesses, or individuals, or through exports to foreign markets; or

(2) capital expenditures, if the authority determines, under criteria that the authority establishes, that the loan is for an industrial development project described in IC 4-4-10.9-11(b)(7).

The loan guarantee may not exceed five hundred thousand dollars (\$500,000) for any single project or operation, and may be in addition to any other guarantees of the authority under this section. The guarantee terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The authority may impose such additional terms as it considers appropriate for any particular project or operation.

(d) The authority is authorized to fix guarantee premiums for the guarantee under this section of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into, and the authority is authorized to fix loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the authority's powers under subsection (h). These premiums, fees, or charges shall be payable in amounts or based upon formulas established by the authority and may be payable, at the election of the authority, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the authority. These premiums, fees, or charges shall be payable by the developer or user to the authority in a manner prescribed by the authority.

(e) Notwithstanding section 19(a)(1) of this chapter, any guarantee made by the authority under subsection (b), (c), or (h) may be effected or enhanced, in whole or in part, through the provision by the authority of a letter of credit or an equivalent form of credit enhancement

instrument. However, the maximum principal payment obligations of the authority under the credit instrument, as the same may be effective from time to time, is the amount of the guarantee or portion of the guarantee made under subsection (b), (c), or (h), and for purposes of the limitations on the amount of guarantees under subsection (b), (c), or (h), and the term of any letter of credit may not exceed the respective terms established for guarantees or loans under subsections (b), (c), and (h).

(f) Notwithstanding the provisions of any other law, loans or leases guaranteed or made by the authority are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.

(g) To further the purposes of this chapter, and subject to this chapter, the authority may also use any part of the industrial development project guaranty fund to guarantee any bonds issued by the authority under this chapter or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are also guaranteed by the authority, the authority may permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate documents securing the direct obligations if the authority in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project undertaken by the authority.

(h) To further the purposes of this chapter, and in addition to the authority's other powers under this chapter, the authority may, upon a written finding as described in subsection (b), make direct loans, from money in the industrial project guaranty fund, to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products, upon the terms and conditions that the authority may prescribe. No new or additional loan may be made if the loan would cause the then outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this subsection and subsections (b) and (c) to exceed eight (8) times the amount of money then in the industrial development project guaranty fund, or would cause the then outstanding aggregate principal balance of all loans made under this subsection and then owing to the authority to exceed twenty percent (20%) of the amount of money then in the industrial development project guaranty fund. The principal amount of such a loan to or for the benefit of a project or operation may not exceed one million dollars (\$1,000,000), less the then outstanding aggregate guarantee obligations with respect to any loans or leases guaranteed under this subsection and subsections (b) and (c) to or for the benefit of that project or operation. With respect to any loan made under this subsection, a loan agreement with the authority must contain the following terms:

(1) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter.

(2) The term of the loan, which must not be later than twenty (20) years from the date of the loan.

(3) The repayment schedule.

(4) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the authority in making the loan.

(5) Any other terms and provisions that the authority requires.

In addition, a loan agreement with the authority under this subsection may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor, and a requirement of any other type or types of security or collateral that the authority may consider to be reasonable or necessary. A loan made under this subsection may be sold by the authority, and the authority may permit other lenders to participate in a loan made under this subsection, at the time or times and upon the terms and conditions as the authority considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the authority, upon terms and conditions established by the authority.

(i) All proceeds received by the authority from the disposal by sale or in some other manner of property it may have acquired in accordance with section 15 of this chapter and in connection with its guaranty program or otherwise under this section shall be credited to the industrial development project guaranty fund.

(j) Upon the issuance of a loan or a guarantee of a loan or lease, any expenses incurred by the authority in connection with the loan or guarantee or the projects or operations for which the loan or guarantee is being made shall be reimbursed to the authority by the borrower, in the case of a loan (to the extent not provided for under subsection (d)), or by the borrower, lender, lessee, or lessor, in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.

SECTION 3. IC 4-4-30-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The center for coal technology research is established to perform the following duties:

(1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.

(2) Investigate the reuse of clean coal technology byproducts, including fly ash.

(3) Generate innovative research in the field of coal use.

(4) Develop new, efficient, and economical sorbents for effective control of emissions.

(5) Investigate ways to increase coal combustion efficiency.

(6) Develop materials that withstand higher combustion temperatures.

(7) Carry out any other matter concerning coal technology research, including public education, as determined by the center.

(8) Administer the Indiana coal research grant fund under IC 4-23-5.5-16.

(9) Determine whether a building is a qualified building for purposes of a property tax deduction under IC 6-1.1-12-34.5.

SECTION 4. IC 4-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The department shall, subject to this chapter, do the following:

(1) Execute and administer all appropriations as provided by law,

and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data and information for the use of the executive department and the legislative department.

(2) Supervise and regulate the making of contracts by state agencies.

(3) Perform the property management functions required by IC 4-20.5-6.

(4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.

(5) Maintain and operate the following for state agencies:

(A) Central duplicating.

(B) Printing.

(C) Machine tabulating.

(D) Mailing services.

(E) Centrally available supplemental personnel and other essential supporting services.

(F) Information services.

(G) Telecommunication services.

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund, the telephone rotary fund, and the data processing rotary fund are established through which these services may be rendered to state agencies. The budget agency shall determine the amount for each rotary fund.

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

(A) Per diem.

(B) For expenses necessarily and actually incurred.

(C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

(9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.

(10) Rent out, with the approval of the governor, any state property, real or personal:

(A) not needed for public use; or

1 (B) for the purpose of providing services to the state or
 2 employees of the state;
 3 the rental of which is not otherwise provided for or prohibited by
 4 law. Property may not be rented out under this subdivision for a
 5 term exceeding ten (10) years at a time. However, if property is
 6 rented out for a term of more than four (4) years, the commissioner
 7 must make a written determination stating the reasons that it is in
 8 the best interests of the state to rent property for the longer term.
 9 This subdivision does not include the power to grant or issue
 10 permits or leases to explore for or take coal, sand, gravel, stone,
 11 gas, oil, or other minerals or substances from or under the bed of
 12 any of the navigable waters of the state or other lands owned by the
 13 state.

14 (11) Have charge of all central storerooms, supply rooms, and
 15 warehouses established and operated by the state and serving more
 16 than one (1) agency.

17 (12) Enter into contracts and issue orders for printing as provided
 18 by IC 4-13-4.1.

19 (13) Sell or dispose of surplus property under IC 5-22-22, or if
 20 advantageous, to exchange or trade in the surplus property toward
 21 the purchase of other supplies, materials, or equipment, and to
 22 make proper adjustments in the accounts and inventory pertaining
 23 to the state agencies concerned.

24 (14) With respect to power, heating, and lighting plants owned,
 25 operated, or maintained by any state agency:

26 (A) inspect;

27 (B) regulate their operation; and

28 (C) recommend improvements to those plants to promote
 29 economical and efficient operation.

30 (15) Administer, determine salaries, and determine other personnel
 31 matters of the department of correction ombudsman bureau
 32 established by IC 4-13-1.2-3.

33 **(16) Adopt policies and standards for making state owned**
 34 **property reasonably available to be used free of charge as**
 35 **locations for making motion pictures.**

36 SECTION 5. IC 4-33-12.5 IS ADDED TO THE INDIANA CODE
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2005]:

39 **Chapter 12.5. Distribution of Admissions Tax Revenue to Certain**
 40 **Municipalities**

41 **Sec. 1. As used in this chapter, "construction" has the meaning**
 42 **set forth in IC 8-14-1-1(4).**

43 **Sec. 2. As used in this chapter, "eligible municipalities" means**
 44 **the following cities and towns located in Lake County:**

45 **(1) Cedar Lake.**

46 **(2) Crown Point.**

47 **(3) Dyer.**

48 **(4) Griffith.**

49 **(5) Highland.**

50 **(6) Hobart.**

51 **(7) Lake Station.**

- (8) Lowell.
- (9) Merrillville.
- (10) Munster.
- (11) New Chicago.
- (12) St. John.
- (13) Schererville.
- (14) Schneider.
- (15) Winfield.
- (16) Whiting.

Sec. 3. As used in this chapter, "highways" has the meaning set forth in IC 8-14-1-1(3).

Sec. 4. As used in this chapter, "maintenance" has the meaning set forth in IC 8-14-1-1(6).

Sec. 5. As used in this chapter, "reconstruction" has the meaning set forth in IC 8-14-1-1(5).

Sec. 6. (a) The county described in IC 4-33-12-6(d) shall distribute twenty-five percent (25%) of the:

- (1) admissions tax revenue received by the county under IC 4-33-12-6(d)(2); and
- (2) supplemental distributions received under IC 4-33-13-5(g);

to the eligible municipalities.

(b) The amount that shall be distributed by the county to each eligible municipality under subsection (a) is based on the eligible municipality's proportionate share of the total population of all eligible municipalities. The most current certified census information available shall be used to determine an eligible municipality's proportionate share under this subsection. The determination of proportionate shares under this subsection shall be modified under the following conditions:

- (1) The certification from any decennial census completed by the United States Bureau of the Census.
- (2) Submission by one (1) or more eligible municipalities of a certified special census commissioned by an eligible municipality and performed by the United States Bureau of the Census.

(c) If proportionate shares are modified under subsection (b), distribution to eligible municipalities shall change with the:

- (1) payments beginning April 1 of the year following the certification of a special census under subsection (b)(2); and
- (2) the next quarterly payment following the certification of a decennial census under subsection (b)(1).

Sec. 7. The county shall make payments under this chapter directly to each eligible municipality. The county shall make payments to the eligible municipalities not more than thirty (30) days after the county receives the quarterly distribution of admission tax revenue under IC 4-33-12-6 or the supplemental distributions received under IC 4-33-13-5(g) from the state.

Sec. 8. An eligible municipality may use money received from the county under this chapter only for the following infrastructure improvements:

- (1) Construction, reconstruction, repair, maintenance, oiling,

and sprinkling of highways and curbs.

(2) Separation of the grades of crossing of highways and railroads.

(3) Engineering, land acquisition, construction, resurfacing, maintenance, restoration, and rehabilitation of both local and arterial road and street systems.

(4) Payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

(5) Local costs required to undertake a recreational or reservoir road project under IC 8-23-5.

(6) Construction, equipment, remodeling, extension, repair, and betterment of structures, including the following:

(A) Sanitary sewers and sanitary sewer tap-ins.

(B) Sidewalks.

(C) Curbs.

(D) Streets.

(E) Alleys.

(F) Pedestrian-ways or malls set aside entirely, partly, or during restricted hours, for pedestrian traffic rather than vehicular traffic.

(G) Other paved public places.

(H) Parking facilities.

(I) Lighting.

(J) Electric signals.

(K) Landscaping, including trees, shrubbery, flowers, grass, fountains, benches, statues, floodlighting, gas lighting, and structures of a decorative, an educational, or a historical nature.

(7) Sewage works, including the following:

(A) Sewage treatment plants.

(B) Intercepting sewers.

(C) Main sewers.

(D) Submain sewers.

(E) Local sewers.

(F) Lateral sewers.

(G) Outfall sewers.

(H) Storm sewers.

(I) Force mains.

(J) Pumping stations.

(K) Ejector stations.

(L) Any other structures necessary or useful for the collection, treatment, purification, and sanitary disposal of the liquid waste, solid waste, sewage, storm drainage, and other drainage of a municipality.

SECTION 6. IC 5-1-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 17. Indiana Stadium and Convention Building Authority

Sec. 1. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by this chapter.

Sec. 2. As used in this chapter, "board" refers to the board of

1 directors of the authority.

2 Sec. 3. As used in this chapter, "bonds" means bonds, notes,
3 commercial paper, or other evidences of indebtedness. The term
4 includes obligations (as defined in IC 8-9.5-9-3) and swap
5 agreements (as defined in IC 8-9.5-9-4).

6 Sec. 4. As used in this chapter, "capital improvement board"
7 refers to a capital improvement board of managers created by
8 IC 36-10-8 or IC 36-10-9.

9 Sec. 5. As used in this chapter, "state agency" has the meaning
10 set forth in IC 4-13.5-1-1.

11 Sec. 6. An Indiana stadium and convention building authority is
12 created in Indiana as a separate body corporate and politic as an
13 instrumentality of the state to acquire, construct, equip, own, lease,
14 and finance facilities for lease to or for the benefit of a capital
15 improvement board.

16 Sec. 7. (a) The board is composed of the following seven (7)
17 members, who must be residents of Indiana:

18 (1) Four (4) members appointed by the governor. The president
19 pro tempore of the senate and the speaker of the house of
20 representatives may each make one (1) recommendation to the
21 governor concerning the appointment of a member under this
22 subdivision.

23 (2) Two (2) members appointed by the executive of a county
24 having a consolidated city.

25 (3) One (1) member appointed by the governor, who has been
26 nominated by the county fiscal body of a county that is
27 contiguous to a county having a consolidated city, determined
28 as follows:

29 (A) The member nominated for the initial term shall be
30 nominated by the contiguous county that has the largest
31 population of all the contiguous counties that have adopted
32 an ordinance to impose a food and beverage tax under
33 IC 6-9-35.

34 (B) The member nominated for each successive term shall be
35 nominated by the contiguous county that:

36 (i) contributed the most revenues from the tax imposed by
37 IC 6-9-35 to the capital improvement board of managers
38 created by IC 36-10-9-3 in the immediately previous
39 calendar year; and

40 (ii) has not previously made a nomination to the governor
41 or, if all the contributing counties have previously made
42 such a nomination, is the one whose then most recent
43 nomination occurred before those of all the other
44 contributing counties.

45 (b) A member appointed under subsection (a)(1) through (a)(2)
46 is entitled to serve a three (3) year term. A member appointed
47 under subsection (a)(3) is entitled to serve a one (1) year term. A
48 member may be reappointed to subsequent terms.

49 (c) If a vacancy occurs on the board, the governor shall fill the
50 vacancy by appointing a new member for the remainder of the
51 vacated term. If the vacated member was appointed under

1 subsection (a)(2) or (a)(3), the governor shall appoint a new
2 member who has been nominated by the person or body who made
3 the nomination of the vacated member.

4 (d) A member may be removed for cause by the appointing
5 authority.

6 (e) Each member, before entering upon the duties of office, must
7 take and subscribe an oath of office under IC 5-4-1, which shall be
8 endorsed upon the certificate of appointment and filed with the
9 records of the board.

10 (f) The governor shall nominate an executive director for the
11 authority, subject to the veto authority of the executive of a county
12 having a consolidated city.

13 Sec. 8. (a) The board shall hold an initial organizational meeting
14 on or before June 30, 2005. Immediately after January 15 of each
15 year, the board shall hold its annual organizational meeting.

16 (b) The governor shall appoint a member of the board to serve as
17 chair of the board.

18 (c) The board shall elect one (1) of the members vice chair and
19 another secretary-treasurer to perform the duties of those offices.
20 These officers serve from the date of their election and until their
21 successors are elected and qualified. The board may elect an
22 assistant secretary-treasurer.

23 (d) Special meetings may be called by the chair of the board or
24 any three (3) members of the board.

25 (e) A majority of the members constitutes a quorum, and the
26 concurrence of a majority of the members is necessary to authorize
27 any action.

28 Sec. 9. (a) The board may adopt the bylaws and rules it considers
29 necessary for the proper conduct of its duties and the safeguarding
30 of the funds and property entrusted to its care.

31 (b) The board shall, without complying with IC 4-22-2, adopt the
32 code of ethics in executive order 05-12 for its members and
33 employees.

34 Sec. 10. The authority is organized for the following purposes:

35 (1) Acquiring, financing, constructing, and leasing land and
36 capital improvements to or for the benefit of a capital
37 improvement board.

38 (2) Financing and constructing additional improvements to
39 capital improvements owned by the authority and leasing them
40 to or for the benefit of a capital improvement board.

41 (3) Acquiring land or all or a portion of one (1) or more capital
42 improvements from a capital improvement board by purchase
43 or lease and leasing the land or these capital improvements
44 back to the capital improvement board, with any additional
45 improvements that may be made to them.

46 (4) Acquiring all or a portion of one (1) or more capital
47 improvements from a capital improvement board by purchase
48 or lease to fund or refund indebtedness incurred on account of
49 those capital improvements to enable the capital improvement
50 board to make a savings in debt service obligations or lease
51 rental obligations or to obtain relief from covenants that the

capital improvement board considers to be unduly burdensome.

Sec. 11. (a) The authority may also:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and capital improvements;

(2) lease the land or those capital improvements to a capital improvement board;

(3) sue, be sued, plead, and be impleaded;

(4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with capital improvements;

(5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;

(6) after giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;

(7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;

(8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees;

(9) make and enter into all contracts and agreements, including agreements to arbitrate, that are necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(10) acquire in the name of the authority by the exercise of the right of condemnation, in the manner provided in subsection (c), public or private lands, or rights in lands, rights-of-way, property, rights, easements, and interests, as it considers necessary for carrying out this chapter; and

(11) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

(b) The authority is subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes. In addition, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

(c) If the authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this chapter, the authority may proceed to procure the condemnation of the property under IC 32-24-1. The authority may not institute a proceeding until the authority has adopted a resolution that:

(1) describes the real property sought to be acquired and the

1 purpose for which the real property is to be used;

2 (2) declares that the public interest and necessity require the
3 acquisition by the authority of the property involved; and

4 (3) sets out any other facts that the authority considers
5 necessary or pertinent.

6 The resolution is conclusive evidence of the public necessity of the
7 proposed acquisition and shall be referred to the attorney general
8 for action, in the name of the authority, in the circuit or superior
9 court of the county in which the real property is located.

10 Sec. 12. (a) Bonds issued under IC 36-10-8 or IC 36-10-9 or prior
11 law may be refunded as provided in this section.

12 (b) A capital improvement board may:

13 (1) lease all or a portion of land or a capital improvement or
14 improvements to the authority, which may be at a nominal
15 lease rental with a lease back to the capital improvement
16 board, conditioned upon the authority assuming bonds issued
17 under IC 36-10-8 or IC 36-10-9 or prior law and issuing its
18 bonds to refund those bonds; and

19 (2) sell all or a portion of land or a capital improvement or
20 improvements to the authority for a price sufficient to provide
21 for the refunding of those bonds and lease back the land or
22 capital improvement or improvements from the authority.

23 Sec. 13. (a) Before a lease may be entered into by a capital
24 improvement board under this chapter, the capital improvement
25 board must find that the lease rental provided for is fair and
26 reasonable.

27 (b) A lease or sublease of land or capital improvements from the
28 authority, or from a state agency under section 26 of this chapter,
29 to a capital improvement board:

30 (1) may not have a term exceeding forty (40) years;

31 (2) may not require payment of lease rentals for a newly
32 constructed capital improvement or for improvements to an
33 existing capital improvement until the capital improvement or
34 improvements thereto have been completed and are ready for
35 occupancy;

36 (3) may contain provisions:

37 (A) allowing the capital improvement board to continue to
38 operate an existing capital improvement until completion of
39 the improvements, reconstruction, or renovation of that
40 capital improvement or any other capital improvement; and

41 (B) requiring payment of lease rentals for land, for an
42 existing capital improvement being used, reconstructed, or
43 renovated, or for any other existing capital improvement;

44 (4) may contain an option to renew the lease for the same or
45 shorter term on the conditions provided in the lease;

46 (5) must contain an option for the capital improvement board
47 to purchase the capital improvement upon the terms stated in
48 the lease:

49 (A) during the term of the lease for a price equal to the
50 amount required to pay all indebtedness incurred on account
51 of the capital improvement, including indebtedness incurred

- 1 for the refunding of that indebtedness; or
- 2 **(B) for one dollar (\$1) after the term of the lease, if all**
- 3 **indebtedness incurred on account of the capital**
- 4 **improvement, including indebtedness incurred for the**
- 5 **refunding of that indebtedness, is no longer outstanding;**
- 6 **(6) may be entered into before acquisition or construction of a**
- 7 **capital improvement;**
- 8 **(7) may provide that the capital improvement board shall agree**
- 9 **to:**
- 10 **(A) pay all taxes and assessments thereon;**
- 11 **(B) maintain insurance thereon for the benefit of the**
- 12 **authority;**
- 13 **(C) assume responsibility for utilities, repairs, alterations,**
- 14 **and any costs of operation; and**
- 15 **(D) pay a deposit or series of deposits to the authority from**
- 16 **any funds legally available to the capital improvement board**
- 17 **before the commencement of the lease to secure the**
- 18 **performance of the capital improvement board's obligations**
- 19 **under the lease;**
- 20 **(8) subject to IC 36-10-8-13 and IC 36-10-9-11, may provide**
- 21 **that the lease rental payments by the capital improvement**
- 22 **board shall be made from:**
- 23 **(A) proceeds of one (1) or more of the excise taxes as defined**
- 24 **in IC 36-10-8 or IC 36-10-9;**
- 25 **(B) proceeds of the county supplemental auto rental excise**
- 26 **tax imposed under IC 6-6-9.7;**
- 27 **(C) that part of the proceeds of the county food and beverage**
- 28 **tax imposed under IC 6-9-35, which the capital improvement**
- 29 **board or its designee receives pursuant thereto;**
- 30 **(D) revenue captured under IC 36-7-31;**
- 31 **(E) net revenues of the capital improvement;**
- 32 **(F) any other funds available to the capital improvement**
- 33 **board; or**
- 34 **(G) any combination of the sources described in clauses (A)**
- 35 **through (F);**
- 36 **(9) subject to subdivision (10), must provide that the capital**
- 37 **improvement board is solely responsible for the operation and**
- 38 **maintenance of the capital improvement upon completion of**
- 39 **construction, including the negotiation and maintenance of**
- 40 **agreements with tenants or users of the capital improvement;**
- 41 **(10) must provide that, during the term of the lease, the**
- 42 **authority retains the right to approve any lease agreements and**
- 43 **amendments to any lease agreements between the capital**
- 44 **improvement board and any National Football League**
- 45 **franchised professional football team that will use the capital**
- 46 **improvement;**
- 47 **(11) must provide that:**
- 48 **(A) subject to the terms of the lease, the capital improvement**
- 49 **board will retain all revenues from operation of the capital**
- 50 **improvement; and**
- 51 **(B) the authority has no responsibility to fund the ongoing**

1 maintenance and operations of the capital improvement; and
 2 (12) with respect to a capital improvement that is subject to the
 3 county admissions tax imposed by IC 6-9-13, must provide that
 4 upon request of the authority the capital improvement board
 5 will impose a fee:

6 (A) not to exceed three dollars (\$3), as determined by the
 7 authority, for each admission to a professional sporting event
 8 described in IC 6-9-13-1; and

9 (B) not to exceed one dollar (\$1), as determined by the
 10 authority, for each admission to any other event described in
 11 IC 6-9-13-1;

12 and, so long as there are any current or future obligations owed
 13 by the capital improvement board to the authority or any state
 14 agency pursuant to a lease or other agreement entered into
 15 between the capital improvement board and the authority or
 16 any state agency under section 26 of this chapter, the capital
 17 improvement board or its designee shall deposit the revenues
 18 received from the fee imposed under this subdivision in a
 19 special fund, which may be used only for the payment of the
 20 obligations described in this subdivision.

21 (c) A capital improvement board may designate the authority as
 22 its agent to receive on behalf of the capital improvement board any
 23 of the revenues identified in subsection (b)(8).

24 (d) All information prepared by the capital improvement board
 25 or a political subdivision served by the capital improvement board
 26 with respect to a capital improvement proposed to be financed
 27 under this chapter, including a construction budget and timeline,
 28 must be provided to the budget director. Any information
 29 described in this subsection that was prepared before May 15,
 30 2005, must be provided to the budget director not later than May
 31 15, 2005.

32 Sec. 14. This chapter contains full and complete authority for
 33 leases between the authority and a capital improvement board. No
 34 law, procedure, proceedings, publications, notices, consents,
 35 approvals, orders, or acts by the board or the capital improvement
 36 board or any other officer, department, agency, or instrumentality
 37 of the state or any political subdivision is required to enter into any
 38 lease, except as prescribed in this chapter.

39 Sec. 15. If the lease provides for a capital improvement or
 40 improvements thereto to be constructed by the authority, the plans
 41 and specifications shall be submitted to and approved by all
 42 agencies designated by law to pass on plans and specifications for
 43 public buildings.

44 Sec. 16. The authority and a capital improvement board may
 45 enter into common wall (party wall) agreements or other
 46 agreements concerning easements or licenses. These agreements
 47 shall be recorded with the recorder of the county in which the
 48 capital improvement is located.

49 Sec. 17. (a) A capital improvement board may lease for a nominal
 50 lease rental, or sell to the authority, one (1) or more capital
 51 improvements or portions thereof or land upon which a capital

1 improvement is located or is to be constructed.

2 (b) Any lease of all or a portion of a capital improvement by a
3 capital improvement board to the authority must be for a term
4 equal to the term of the lease of that capital improvement back to
5 the capital improvement board.

6 (c) A capital improvement board may sell property to the
7 authority.

8 Sec. 18. (a) Subject to subsection (h), the authority may issue
9 bonds for the purpose of obtaining money to pay the cost of:

10 (1) acquiring real or personal property, including existing
11 capital improvements;

12 (2) constructing, improving, reconstructing, or renovating one

13 (1) or more capital improvements; or

14 (3) funding or refunding bonds issued under IC 36-10-8 or
15 IC 36-10-9 or prior law.

16 (b) The bonds are payable from the lease rentals from the lease
17 of the capital improvements for which the bonds were issued,
18 insurance proceeds, and any other funds pledged or available.

19 (c) The bonds shall be authorized by a resolution of the board.

20 (d) The terms and form of the bonds shall either be set out in the
21 resolution or in a form of trust indenture approved by the
22 resolution.

23 (e) The bonds shall mature within forty (40) years.

24 (f) The board shall sell the bonds at public or private sale upon
25 the terms determined by the board.

26 (g) All money received from any bonds issued under this chapter
27 shall be applied to the payment of the cost of the acquisition or
28 construction, or both, of capital improvements, or the cost of
29 refunding or refinancing outstanding bonds, for which the bonds
30 are issued. The cost may include:

31 (1) planning and development of the facility and all buildings,
32 facilities, structures, and improvements related to it;

33 (2) acquisition of a site and clearing and preparing the site for
34 construction;

35 (3) equipment, facilities, structures, and improvements that are
36 necessary or desirable to make the capital improvement
37 suitable for use and operations;

38 (4) architectural, engineering, consultant, and attorney's fees;

39 (5) incidental expenses in connection with the issuance and sale
40 of bonds;

41 (6) reserves for principal and interest;

42 (7) interest during construction;

43 (8) financial advisory fees;

44 (9) insurance during construction;

45 (10) municipal bond insurance, debt service reserve insurance,
46 letters of credit, or other credit enhancement; and

47 (11) in the case of refunding or refinancing, payment of the
48 principal of, redemption premiums (if any) for, and interest on,
49 the bonds being refunded or refinanced.

50 (h) The authority may not issue bonds under this chapter unless
51 the authority first finds that the following conditions are met:

(1) Each contract or subcontract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds:

(A) requires payment of the common construction wage required by IC 5-16-7; and

(B) requires the contractor or subcontractor to enter into a project labor agreement as a condition of being awarded and performing work on the contract.

(2) The capital improvement board and the authority have entered into a written agreement concerning the terms of the financing of the facility. This agreement must include the following provisions:

(A) Notwithstanding any other law, if the capital improvement board selected a construction manager and an architect for a facility before May 15, 2005, the authority will contract with that construction manager and architect and use plans as developed by that construction manager and architect. In addition, any other agreements entered into by the capital improvement board or a political subdivision served by the capital improvement board with respect to the design and construction of the facility will be reviewed by a selection committee consisting of:

(i) two (2) of the members appointed to the board of directors of the authority under section 7(a)(1) of this chapter, as designated by the governor;

(ii) the two (2) members appointed to the board of directors of the authority under section 7(a)(2) of this chapter; and

(iii) the executive director of the authority.

The selection committee is not bound by any prior commitments of the capital improvement board or the political subdivision, other than the general project design, and will approve all contracts necessary for the design and construction of the facility.

(B) If before May 15, 2005, the capital improvement board acquired any land, plans, or other information necessary for the facility and the board had budgeted for these items, the capital improvement board will transfer the land, plans, or other information useful to the authority for a price not to exceed the lesser of:

(i) the actual cost to the capital improvement board; or

(ii) three million five hundred thousand dollars (\$3,500,000).

(C) The capital improvement board agrees to take any legal action that the authority considers necessary to facilitate the financing of the facility, including entering into agreements during the design and construction of the facility or a sublease of a capital improvement to any state agency that is then leased by the authority to any state agency under section 26 of this chapter.

(D) The capital improvement board is prohibited from taking any other action with respect to the financing of the facility without the prior approval of the authority. The authority is not bound by the terms of any agreement entered into by the capital improvement board with respect to the financing of the facility without the prior approval of the authority.

(E) As the project financier, the Indiana development finance authority (or its successor agency) and the public finance director will be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

(F) The capital improvement board agrees to deliver to the authority the one hundred million dollars (\$100,000,000) that is owed to the capital improvement board, the consolidated city, or the county having a consolidated city pursuant to an agreement between the National Football League franchised professional football team and the capital improvement board, the consolidated city, or the county. This amount shall be applied to the cost of construction for the stadium part of the facility. This amount does not have to be delivered until a lease is entered into for the stadium between the authority and the capital improvement board.

(G) The authority agrees to consult with the staff of the capital improvement board on an as needed basis during the design and construction of the facility, and the capital improvement board agrees to make its staff available for this purpose.

(H) The authority, the county, the consolidated city, the capital improvement board and the National Football League franchised professional football team must commit to using their best efforts to assist and cooperate with one another to design and construct the facility on time and on budget.

(3) The capital improvement board and the National Football League franchised professional football team have entered into a lease for the stadium part of the facility that has been approved by the authority and has a term of at least thirty (30) years.

Sec. 19. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

Sec. 20. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

1 **Sec. 21. (a) The authority may secure bonds issued under this**
 2 **chapter by a trust indenture between the authority and a corporate**
 3 **trustee, which may be any trust company or national or state bank**
 4 **within Indiana that has trust powers.**

5 **(b) The trust indenture may:**

6 **(1) pledge or assign lease rentals, receipts, and income from**
 7 **leased capital improvements, but may not mortgage land or**
 8 **capital improvements;**

9 **(2) contain reasonable and proper provisions for protecting**
 10 **and enforcing the rights and remedies of the bondholders,**
 11 **including covenants setting forth the duties of the authority**
 12 **and board;**

13 **(3) set forth the rights and remedies of bondholders and**
 14 **trustee; and**

15 **(4) restrict the individual right of action of bondholders.**

16 **(c) Any pledge or assignment made by the authority under this**
 17 **section is valid and binding from the time that the pledge or**
 18 **assignment is made, against all persons whether or not they have**
 19 **notice of the lien. Any trust indenture by which a pledge is created**
 20 **or an assignment made need not be filed or recorded. The lien is**
 21 **perfected against third parties by filing the trust indenture in the**
 22 **records of the board.**

23 **Sec. 22. If a capital improvement board exercises its option to**
 24 **purchase leased property, it may issue its bonds as authorized by**
 25 **statute.**

26 **Sec. 23. All:**

27 **(1) property owned by the authority;**

28 **(2) revenues of the authority; and**

29 **(3) bonds issued by the authority, the interest on the bonds, the**
 30 **proceeds received by a holder from the sale of bonds to the**
 31 **extent of the holder's cost of acquisition, proceeds received**
 32 **upon redemption before maturity, proceeds received at**
 33 **maturity, and the receipt of interest in proceeds;**

34 **are exempt from taxation in Indiana for all purposes except the**
 35 **financial institutions tax imposed under IC 6-5.5 or a state**
 36 **inheritance tax imposed under IC 6-4.1.**

37 **Sec. 24. Any action to contest the validity of bonds to be issued**
 38 **under this chapter may not be brought after the fifteenth day**
 39 **following:**

40 **(1) the receipt of bids for the bonds, if the bonds are sold at**
 41 **public sale; or**

42 **(2) the publication one (1) time in a newspaper of general**
 43 **circulation published in the county of notice of the execution**
 44 **and delivery of the contract for the sale of bonds;**

45 **whichever occurs first.**

46 **Sec. 25. The authority shall not issue bonds in a principal amount**
 47 **exceeding five hundred million dollars (\$500,000,000) to finance**
 48 **any capital improvement in a county having a consolidated first**
 49 **class city unless:**

50 **(1) on or before June 30, 2005, the county fiscal body:**

51 **(A) increases the rate of the tax authorized by IC 6-6-9.7 by**

1 the maximum amount authorized by IC 6-6-9.7-7(c);
 2 (B) increases the rate of the tax authorized by IC 6-9-8 by the
 3 maximum amount authorized by IC 6-9-8-3(d);
 4 (C) increases the rate of tax authorized by IC 6-9-12 by the
 5 maximum amount authorized by IC 6-9-12-5(b); and
 6 (D) increases the rate of the tax authorized by IC 6-9-13 by
 7 the maximum amount authorized by IC 6-9-13-2(b); and
 8 (2) on or before October 1, 2005, the budget director makes a
 9 determination under IC 36-7-31-14.1 to increase the amount of
 10 money captured in a tax area established under IC 36-7-31 by
 11 up to eleven million dollars (\$11,000,000) per year,
 12 commencing July 1, 2007.

13 Sec. 26. (a) Notwithstanding any other law, any capital
 14 improvement that may be leased by the authority to a capital
 15 improvement board under this chapter may also be leased by the
 16 authority to any state agency to accomplish the purposes of this
 17 chapter. Any lease between the authority and a state agency under
 18 this chapter:

- 19 (1) must set forth the terms and conditions of the use and
- 20 occupancy under the lease;
- 21 (2) must set forth the amounts agreed to be paid at stated
- 22 intervals for the use and occupancy under the lease;
- 23 (3) must provide that the state agency is not obligated to
- 24 continue to pay for the use and occupancy under the lease but
- 25 is instead required to vacate the facility if it is shown that the
- 26 terms and conditions of the use and occupancy and the amount
- 27 to be paid for the use and occupancy are unjust and
- 28 unreasonable considering the value of the services and facilities
- 29 thereby afforded;
- 30 (4) must provide that the state agency is required to vacate the
- 31 facility if funds have not been appropriated or are not available
- 32 to pay any sum agreed to be paid for use and occupancy when
- 33 due;
- 34 (5) may provide for such costs as maintenance, operations,
- 35 taxes, and insurance to be paid by the state agency;
- 36 (6) may contain an option to renew the lease;
- 37 (7) may contain an option to purchase the facility for an
- 38 amount equal to the amount required to pay the principal and
- 39 interest of indebtedness of the authority incurred on account of
- 40 the facility and expenses of the authority attributable to the
- 41 facility;
- 42 (8) may provide for payment of sums for use and occupancy of
- 43 an existing capital improvement being used by the state agency,
- 44 but may not provide for payment of sums for use and
- 45 occupancy of a new capital improvement until the construction
- 46 of the capital improvement or portion thereof has been
- 47 completed and the new capital improvement or a portion
- 48 thereof is available for use and occupancy by the state agency;
- 49 and
- 50 (9) may contain any other provisions agreeable to the authority
- 51 and the state agency.

(b) Any state agency that leases a capital improvement from the authority under this chapter may sublease the capital improvement to a capital improvement board under the terms and conditions set forth in section 13(a) of this chapter, section 13(b)(1) through 13(b)(4) of this chapter, section 13(b)(6) through 13(b)(8) of this chapter, and section 13(c) of this chapter.

(c) Notwithstanding any other law, in anticipation of the construction of any capital improvement and the lease of that capital improvement by the authority to a state agency, the authority may acquire an existing facility owned by the state agency and then lease the facility to the state agency. A lease made under this subsection shall describe the capital improvement to be constructed and may provide for the payment of rent by the state agency for the use of the existing facility. If such rent is to be paid pursuant to the lease, the lease shall provide that upon completion of the construction of the capital improvement, the capital improvement shall be substituted for the existing facility under the lease. The rent required to be paid by the state agency pursuant to the lease shall not constitute a debt of the state for purposes of the Constitution of the State of Indiana. A lease entered into under this subsection is subject to the same requirements for a lease entered into under subsection (a) with respect to both the existing facility and the capital improvement anticipated to be constructed.

(d) This chapter contains full and complete authority for leases between the authority and a state agency and subleases between a state agency and a capital improvement board. No laws, procedures, proceedings, publications, notices, consents, approvals, orders, or acts by the board, the governing body of any state agency or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any such lease or sublease, except as prescribed in this chapter.

Sec. 27. In order to enable the authority to lease a capital improvement or existing facility to a state agency under section 26 of this chapter, the governor may convey, transfer, or sell, with or without consideration, real property (including the buildings, structures, and improvements), title to which is held in the name of the state, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this chapter.

Sec. 28. If the authority enters into a lease with a capital improvement board under section 13 of this chapter or a state agency under section 26 of this chapter, which then enters into a sublease with a capital improvement board under section 26(b) of this chapter, and the rental payments owed by the capital improvement board to the authority under the lease or to the state agency under the sublease are payable from the taxes described in section 25 of this chapter or from the taxes authorized under IC 6-9-35, the budget director may choose the designee of the capital improvement board, which shall receive and deposit the revenues derived from such taxes. The designee shall hold the

1 revenues on behalf of the capital improvement board pursuant to
 2 an agreement between the authority and the capital improvement
 3 board or between a state agency and the capital improvement
 4 board. The agreement shall provide for the application of the
 5 revenues in a manner that does not adversely affect the validity of
 6 the lease or the sublease, as applicable.

7 SECTION 7. IC 5-28-15-3, AS ADDED BY P.L.4-2005, SECTION
 8 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JANUARY 1, 2006]: Sec. 3. As used in this chapter, "zone business"
 10 means an entity that accesses at least one (1) tax credit, **deduction**, or
 11 exemption incentive available under this chapter, IC 6-1.1-20.8, ~~or~~
 12 **IC 6-1.1-45, IC 6-3-3-10, IC 6-3.1-7, or IC 6-3.1-10.**

13 SECTION 8. IC 5-28-15-5, AS ADDED BY P.L.4-2005, SECTION
 14 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 15 2005]: Sec. 5. (a) The board has the following powers, in addition to
 16 other powers that are contained in this chapter:

17 (1) To review and approve or reject all applicants for enterprise
 18 zone designation, according to the criteria for designation that this
 19 chapter provides.

20 (2) To waive or modify rules as provided in this chapter.

21 (3) To provide a procedure by which enterprise zones may be
 22 monitored and evaluated on an annual basis.

23 (4) To adopt rules for the disqualification of a zone business from
 24 eligibility for any or all incentives available to zone businesses, if
 25 that zone business does not do one (1) of the following:

26 (A) If all its incentives, as contained in the summary required
 27 under section 7 of this chapter, exceed one thousand dollars
 28 (\$1,000) in any year, pay a registration fee to the board in an
 29 amount equal to one percent (1%) of all its incentives.

30 (B) Use all its incentives, except for the amount of the
 31 registration fee, for its property or employees in the zone.

32 (C) Remain open and operating as a zone business for twelve
 33 (12) months of the assessment year for which the incentive is
 34 claimed.

35 (5) To disqualify a zone business from eligibility for any or all
 36 incentives available to zone businesses in accordance with the
 37 procedures set forth in the board's rules.

38 (6) After a recommendation from a U.E.A., to modify an enterprise
 39 zone boundary if the board determines that the modification:

40 (A) is in the best interests of the zone; and

41 (B) meets the threshold criteria and factors set forth in section 9
 42 of this chapter.

43 (7) To employ staff and contract for services.

44 (8) To receive funds from any source and expend the funds for the
 45 administration and promotion of the enterprise zone program.

46 (9) To make determinations under IC 6-3.1-11 concerning the
 47 designation of locations as industrial recovery sites and the
 48 availability of the credit provided by IC 6-1.1-20.7 to persons
 49 owning inventory located on an industrial recovery site.

50 (10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11
 51 concerning the disqualification of persons from claiming credits

provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(b) In addition to a registration fee paid under subsection (a)(4)(A), each zone business that receives ~~a credit under an incentive described in section 3 of~~ this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 9. IC 5-28-15-6, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

(1) the revenue from the registration fee required under section 5 of this chapter; and

(2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

(1) pay the expenses of administering the fund;

(2) pay nonrecurring administrative expenses of the enterprise zone program; ~~and~~

(3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; ~~and~~

(4) pay administrative expenses of urban enterprise associations.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection.

The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

SECTION 10. IC 6-1.1-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

- (1) nursery stock that has been severed from the ground;
- (2) florists' stock of growing crops which are ready for sale as pot plants on benches;
- (3) billboards and other advertising devices which are located on real property that is not owned by the owner of the devices;
- (4) motor vehicles, mobile houses, airplanes, boats not subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5;
- (5) foundations (other than foundations which support a building or structure) on which machinery or equipment is installed; and
- (6) all other tangible property (other than real property) which is being:
 - (A) held for sale in the ordinary course of a trade or business;
 - (B) held, used, or consumed in connection with the production of income; or
 - (C) held as an investment.

(b) Personal property does not include **the following**:

- (1) Commercially planted and growing crops while they are in the ground.
- (2) **Computer application software that is not held as inventory (as defined in IC 6-1.1-3-11).**

SECTION 11. IC 6-1.1-12-34.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34.5. (a) **As used in this section, "coal combustion product" has the meaning set forth in IC 6-1.1-44-1.**

(b) **As used in this section, "qualified building" means a building designed and constructed to systematically use qualified materials throughout the building.**

(c) **For purposes of this section, building materials are "qualified materials" if at least sixty percent (60%) of the materials' dry weight consists of coal combustion products.**

(d) **The owner of a qualified building, as determined by the center for coal technology research, is entitled to a property tax deduction for not more than three (3) years. The amount of the deduction equals the product of:**

- (1) **the assessed value of the qualified building; multiplied by**
- (2) **five percent (5%).**

SECTION 12. IC 6-1.1-12-35.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35.5. (a) Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 31, 33, ~~or~~ 34, **or 34.5** of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) **or (f)** with the auditor of the county in which the

property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement between March 1 and May 10, inclusive, of the assessment year. The person must file the statement in each year for which ~~he~~ **the person** desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement between January 15 and March 31, inclusive, of each year for which ~~he~~ **the person** desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the deduction.

(b) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. If the department of environmental management receives an application for certification before April 10 of the assessment year, the department shall determine whether the system or device qualifies for a deduction before May 10 of the assessment year. If the department fails to make a determination under this subsection before May 10 of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, ~~or~~ 34, or 34.5 of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) between March 1 and May 15, inclusive, of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.

(f) This subsection applies only to an application for a deduction under section 34.5 of this chapter. The center for coal technology research established by IC 4-4-30-5, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe

the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under section 34.5 of this chapter before April 10 of an assessment year:

(1) the center shall determine whether the building qualifies for a deduction before May 10 of the assessment year; and

(2) if the center fails to make a determination before May 10 of the assessment year, the building is considered certified.

SECTION 13. IC 6-1.1-12-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 36. (a) A person who receives a deduction provided under section 26, 29, 33, 34, **34.5**, or 38 of this chapter for a particular year and who remains eligible for the deduction for the following year is not required to file a statement to apply for the deduction for the following year.

(b) A person who receives a deduction provided under section 26, 29, 33, 34, **34.5**, or 38 of this chapter for a particular year and who becomes ineligible for the deduction for the following year shall notify the auditor of the county in which the real property or mobile home for which ~~he~~ **the person** received the deduction is located of ~~his~~ **the person's** ineligibility before March 31 of the year for which ~~he~~ **the person** becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 26, 29, 33, 34, **34.5**, or 38 of this chapter to each person who received the deduction in the preceding year unless the auditor determines that the person is no longer eligible for the deduction.

SECTION 14. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) Annually, after November 10th but ~~prior to~~ **before** August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. **Annually, after May 10 but before October 31 of the same year, each county treasurer may serve a written demand upon a county resident who is delinquent in the payment of personal property taxes.** The written demand may be served upon the taxpayer:

(1) by registered or certified mail;

(2) in person by the county treasurer or the county treasurer's agent;

or

(3) by proof of certificate of mailing.

(b) The written demand required by this section shall contain:

(1) a statement that the taxpayer is delinquent in the payment of personal property taxes;

(2) the amount of the delinquent taxes;

(3) the penalties due on the delinquent taxes;

(4) the collection expenses which the taxpayer owes; and

(5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

(c) Subsections (d) through (g) apply only to personal property that:

(1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

(2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and

(3) has an assessed value of at least three thousand two hundred dollars (\$3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

STEP SIX: Multiply the STEP ONE amount by the STEP FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

1 (1) the name and address of the debtor; and
 2 (2) a specific description of the personal property described in
 3 subsection (d);
 4 **when requesting a delinquent personal property tax form.**

5 **(f) The delinquent personal property tax form must be in a form**
 6 **prescribed by the state board of accounts under IC 5-11 and must**
 7 **require the following information:**

8 (1) The name and address of the debtor as identified by the
 9 creditor.

10 (2) A description of the personal property identified by the
 11 creditor and now in the creditor's possession.

12 (3) The assessed value of the personal property identified by
 13 the creditor and now in the creditor's possession, as determined
 14 under subsection (g).

15 (4) The amount of delinquent personal property taxes owed on
 16 the personal property identified by the creditor and now in the
 17 creditor's possession, as determined under subsection (g).

18 (5) A statement notifying the creditor that IC 6-1.1-23-1
 19 requires that a creditor, upon the liquidation of personal
 20 property for the satisfaction of the creditor's lien, must pay in
 21 full the amount of delinquent personal property taxes owed as
 22 determined under subsection (d) on the personal property in
 23 the amount identified on this form from the proceeds of the
 24 liquidation before the proceeds of the liquidation may be
 25 applied to the creditor's lien on the personal property.

26 **(g) The county treasurer shall provide the delinquent personal**
 27 **property tax form described in subsection (f) to the creditor not**
 28 **later than fourteen (14) days after the date the creditor requests the**
 29 **delinquent personal property tax form. The county and township**
 30 **assessors shall assist the county treasurer in determining the**
 31 **appropriate assessed value of the personal property and the**
 32 **amount of delinquent personal property taxes owed on the personal**
 33 **property. Assistance provided by the county and township**
 34 **assessors must include providing the county treasurer with relevant**
 35 **personal property forms filed with the assessors and providing the**
 36 **county treasurer with any other assistance necessary to accomplish**
 37 **the purposes of this section.**

38 SECTION 15. IC 6-1.1-31-7 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 7. (a) With
 40 respect to the assessment of personal property, the rules of the
 41 department of local government finance shall provide for the
 42 classification of personal property on the basis of:

43 (1) date of purchase;
 44 (2) location;
 45 (3) use;
 46 (4) depreciation, obsolescence, and condition; and
 47 (5) any other factor that the department determines by rule is just
 48 and proper.

49 (b) With respect to the assessment of personal property, the rules of
 50 the department of local government finance shall include instructions
 51 for determining:

- (1) the proper classification of personal property;
- (2) the effect that location has on the value of personal property;
- (3) the cost of reproducing personal property;
- (4) the depreciation, including physical deterioration and obsolescence, of personal property;
- (5) the productivity or earning capacity of mobile homes regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;
- (6) the true tax value of mobile homes assessed under IC 6-1.1-7 (other than mobile homes subject to the preferred valuation method under IC 6-1.1-4-39(b)) as the least of the values determined using the following:**

(A) The National Automobile Dealers Association Guide.

(B) The purchase price of a mobile home if:

- (i) the sale is of a commercial enterprise nature; and**
- (ii) the buyer and seller are not related by blood or marriage.**

(C) Sales data for generally comparable mobile homes; and

(7) the true tax value at the time of acquisition of computer application software, for the purpose of deducting the value of computer application software from the acquisition cost of tangible personal property whenever the value of the tangible personal property that is recorded on the taxpayer's books and records reflects the value of the computer application software; and

~~(7)~~ **(8) the true tax value of personal property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.**

(c) In providing for the classification of personal property and the instructions for determining the items listed in subsection (b), the department of local government finance shall not include the value of land as a cost of producing tangible personal property subject to assessment.

(d) With respect to the assessment of personal property, true tax value does not mean fair market value. Subject to this article, true tax value is the value determined under rules of the department of local government finance.

SECTION 16. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 45. Enterprise Zone Investment Deduction

Sec. 1. The definitions in this chapter apply throughout this chapter.

Sec. 2. "Base year assessed value" equals the total assessed value of the real and personal property assessed at an enterprise zone location on the assessment date in the calendar year immediately preceding the calendar year in which a taxpayer makes a qualified investment with respect to the enterprise zone location.

Sec. 3. "Corporation" refers to the Indiana economic development corporation established under IC 5-28-3-1.

Sec. 4. "Enterprise zone" refers to an enterprise zone created

under IC 5-28-15.

Sec. 5. "Enterprise zone location" means a lot, parcel, or tract of land located in an enterprise zone.

Sec. 6. "Enterprise zone property" refers to real and tangible personal property that is located within an enterprise zone on an assessment date.

Sec. 7. As used in this chapter, "qualified investment" means any of the following expenditures relating to an enterprise zone location on which a taxpayer's zone business is located:

- (1) The purchase of a building.
- (2) The purchase of new manufacturing or production equipment.
- (3) Costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements.
- (4) Onsite infrastructure improvements.
- (5) The construction of a new building.
- (6) Costs associated with retooling existing machinery.

Sec. 8. "Zone business" has the meaning set forth in IC 5-28-15-3.

Sec. 9. (a) A taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

- (1) the total amount of the assessed value of the taxpayer's enterprise zone property assessed at the enterprise zone location on a particular assessment date; minus
- (2) the total amount of the base year assessed value for the enterprise zone location.

(b) To receive the deduction allowed under subsection (a) for a particular year, a taxpayer must comply with the conditions set forth in this chapter.

Sec. 10. (a) A taxpayer that desires to claim the deduction provided by section 9 of this chapter for a particular year shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the deduction is claimed was located on the assessment date. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed before May 10 of the assessment year to obtain the deduction.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance and the corporation require to determine eligibility for the deduction provided under this chapter.

Sec. 11. (a) The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk

of the circuit or superior court not later than forty-five (45) days after the county auditor gives the person notice of the determination.

Sec. 12. A taxpayer may not claim a deduction under this chapter for more than ten (10) years.

SECTION 17. IC 6-3.1-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. The department shall annually compile and report to the Indiana economic development corporation the following information:**

(1) The number of tax credits claimed under this chapter for returns processed during the preceding state fiscal year.

(2) The total amount of the claims for tax credits described in subdivision (1).

(3) For each enterprise zone, the number and amount of the claims for tax credits described in subdivision (1) that are attributable to loans made to businesses located in the enterprise zone.

SECTION 18. IC 6-3.5-6-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) This section applies only to Miami County. Miami County possesses unique economic development challenges due to:**

(1) underemployment in relation to similarly situated counties; and

(2) the presence of a United States government military base or other military installation that is completely or partially inactive or closed.

Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described under subsection (c), rather than use of property taxes, promotes that purpose.

(b) In addition to the rates permitted by sections 8 and 9 of this chapter, the county council may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county council makes the finding and determination set forth in subsection (c). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) In order to impose the county option income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county option income tax are needed to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail, including the repayment of bonds issued, or leases entered into, for financing, constructing, acquiring, renovating, and equipping a county jail.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater

than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping a county jail.

(e) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(f) County option income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 19. IC 6-3.5-6-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) This section applies only to Howard County.

(b) Maintaining low property tax rates is essential to economic development, and the use of county option income tax revenues as provided in this chapter and as needed in the county to fund the operation and maintenance of a jail and juvenile detention center, rather than the use of property taxes, promotes that purpose.

(c) In addition to the rates permitted by sections 8 and 9 of this chapter, the county fiscal body may impose the county option income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of resident county taxpayers if the county fiscal body makes the finding and determination set forth in subsection (d). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(d) In order to impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance:

(1) finding and determining that revenues from the county option income tax are needed in the county to fund the operation and maintenance of a jail, a juvenile detention center, or both; and

(2) agreeing to freeze the part of any property tax levy imposed in the county for the operation of the jail or juvenile detention center, or both, covered by the ordinance at the rate imposed in the year preceding the year in which a full year of additional county option income tax is certified for distribution to the

county under this section for the term in which an ordinance is in effect under this section.

(e) If the county fiscal body makes a determination under subsection (d), the county fiscal body may adopt a tax rate under subsection (c). Subject to the limitations in subsection (c), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department of state revenue. An ordinance adopted under this section before April 1 in a year applies to the imposition of county income taxes after June 30 in that year. An ordinance adopted under this section after March 31 of a year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(f) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(g) County option income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section; and

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5.

(h) The department of local government finance shall enforce an agreement under subsection (d)(2).

(i) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts an increased tax rate under this section and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 20. IC 6-3.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), ~~or~~ (p), ~~or~~ (s), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), ~~or~~ (p), (r), ~~or~~ (t), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

- (1) county economic development income tax may be imposed at a rate of:
 - (A) fifteen-hundredths percent (0.15%);
 - (B) two-tenths percent (0.2%); or
 - (C) twenty-five hundredths percent (0.25%); and
- (2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

1 if the county income tax council makes a determination to impose rates
2 under this subsection and section 22 of this chapter.

3 (h) For a county having a population of more than forty-one thousand
4 (41,000) but less than forty-three thousand (43,000), except as provided
5 in subsection (p), the county economic development income tax rate
6 plus the county adjusted gross income tax rate that are in effect on
7 January 1 of a year may not exceed one and thirty-five hundredths
8 percent (1.35%) if the county has imposed the county adjusted gross
9 income tax at a rate of one and one-tenth percent (1.1%) under
10 IC 6-3.5-1.1-2.5.

11 (i) For a county having a population of more than thirteen thousand
12 five hundred (13,500) but less than fourteen thousand (14,000), except
13 as provided in subsection (p), the county economic development
14 income tax rate plus the county adjusted gross income tax rate that are
15 in effect on January 1 of a year may not exceed one and fifty-five
16 hundredths percent (1.55%).

17 (j) For a county having a population of more than seventy-one
18 thousand (71,000) but less than seventy-one thousand four hundred
19 (71,400), except as provided in subsection (p), the county economic
20 development income tax rate plus the county adjusted gross income tax
21 rate that are in effect on January 1 of a year may not exceed one and
22 five-tenths percent (1.5%).

23 (k) This subsection applies to a county having a population of more
24 than twenty-seven thousand four hundred (27,400) but less than
25 twenty-seven thousand five hundred (27,500). Except as provided in
26 subsection (p), in addition to the rates permitted under subsection (b):
27 (1) the county economic development income tax may be imposed
28 at a rate of twenty-five hundredths percent (0.25%); and
29 (2) the sum of the county economic development income tax rate
30 and the county adjusted gross income tax rate that are in effect on
31 January 1 of a year may not exceed one and five-tenths percent
32 (1.5%);

33 if the county council makes a determination to impose rates under this
34 subsection and section 22.5 of this chapter.

35 (l) For a county having a population of more than twenty-nine
36 thousand (29,000) but less than thirty thousand (30,000), except as
37 provided in subsection (p), the county economic development income
38 tax rate plus the county adjusted gross income tax rate that are in effect
39 on January 1 of a year may not exceed one and five-tenths percent
40 (1.5%).

41 (m) For:

42 (1) a county having a population of more than one hundred
43 eighty-two thousand seven hundred ninety (182,790) but less than
44 two hundred thousand (200,000); or
45 (2) a county having a population of more than forty-five thousand
46 (45,000) but less than forty-five thousand nine hundred (45,900);
47 except as provided in subsection (p), the county economic development
48 income tax rate plus the county adjusted gross income tax rate that are
49 in effect on January 1 of a year may not exceed one and five-tenths
50 percent (1.5%).

51 (n) For a county having a population of more than six thousand

(6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

SECTION 21. IC 6-3.5-7-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision (4).

(4) This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision (3) that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(5) This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. A county or a city or town in the county may use county economic development income tax revenue to provide additional homestead credits in the county, city, or town. The following apply to additional homestead credits provided under this subdivision:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the additional homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide additional homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(D) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(E) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this

1 **subdivision to provide additional homestead credits in that**
 2 **year.**

3 (c) As used in this section, an economic development project is any
 4 project that:

- 5 (1) the county, city, or town determines will:
- 6 (A) promote significant opportunities for the gainful employment
 - 7 of its citizens;
 - 8 (B) attract a major new business enterprise to the unit; or
 - 9 (C) retain or expand a significant business enterprise within the
 - 10 unit; and
 - 11 (2) involves an expenditure for:
 - 12 (A) the acquisition of land;
 - 13 (B) interests in land;
 - 14 (C) site improvements;
 - 15 (D) infrastructure improvements;
 - 16 (E) buildings;
 - 17 (F) structures;
 - 18 (G) rehabilitation, renovation, and enlargement of buildings and
 - 19 structures;
 - 20 (H) machinery;
 - 21 (I) equipment;
 - 22 (J) furnishings;
 - 23 (K) facilities;
 - 24 (L) administrative expenses associated with such a project,
 - 25 including contract payments authorized under subsection
 - 26 (b)(2)(D);
 - 27 (M) operating expenses authorized under subsection (b)(2)(E);
 - 28 or
 - 29 (N) to the extent not otherwise allowed under this chapter,
 - 30 substance removal or remedial action in a designated unit;
 - 31 or any combination of these.

32 SECTION 22. IC 6-6-9.5 IS ADDED TO THE INDIANA CODE AS
 33 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 2005]:

35 **Chapter 9.5. Vanderburgh County Supplemental Auto Rental**
 36 **Excise Tax**

37 **Sec. 1. This chapter applies to Vanderburgh County.**

38 **Sec. 2. As used in this chapter, "department" refers to the**
 39 **department of state revenue.**

40 **Sec. 3. As used in this chapter, "gross retail income" has the**
 41 **meaning set forth in IC 6-2.5-1-5.**

42 **Sec. 4. As used in this chapter, "passenger motor vehicle" has the**
 43 **meaning set forth in IC 9-13-2-123(a).**

44 **Sec. 5. As used in this chapter, "person" has the meaning set**
 45 **forth in IC 6-2.5-1-3.**

46 **Sec. 6. As used in this chapter, "retail merchant" has the**
 47 **meaning set forth in IC 6-2.5-1-8.**

48 **Sec. 7. (a) The legislative body of the most populous city in the**
 49 **county may adopt an ordinance to impose an excise tax, known as**
 50 **the county supplemental auto rental excise tax, upon the rental of**
 51 **passenger motor vehicles in the county for periods of less than**

thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

Sec. 8. (a) The rental of a passenger motor vehicle by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the funeral director for a funeral.

(b) The temporary rental of a passenger motor vehicle is exempt from the county supplemental auto rental excise tax if the rental is:

(1) made or reimbursed under a contract or agreement:

(A) between a provider and a person;

(B) given for consideration over and above the lease or purchase price of a motor vehicle; and

(C) that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;

(2) made or reimbursed under a contract for mechanical breakdown insurance;

(3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to a person after the person's vehicle is damaged or destroyed in a collision; or

(4) otherwise provided to a person as a replacement vehicle:

(A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or

(B) until the person permanently replaces a vehicle that has been destroyed.

Sec. 9. A person that rents a passenger motor vehicle is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 10. (a) Except as otherwise provided in this section, the

1 county supplemental auto rental excise tax shall be imposed, paid,
2 and collected in the same manner that the state gross retail tax is
3 imposed, paid, and collected under IC 6-2.5.

4 (b) Each retail merchant filing a return for the county
5 supplemental auto rental excise tax shall indicate in the return:

6 (1) all locations in the county where the retail merchant
7 collected county supplemental auto rental excise taxes; and

8 (2) the amount of county supplemental auto rental excise taxes
9 collected at each location.

10 (c) The return to be filed for the payment of the county
11 supplemental auto rental excise tax may be:

12 (1) a separate return;

13 (2) combined with the return filed for the payment of the auto
14 rental excise tax under IC 6-6-9; or

15 (3) combined with the return filed for the payment of the state
16 gross retail tax;

17 as prescribed by the department.

18 Sec. 11. The amounts received from the tax imposed under this
19 chapter shall be paid monthly by the treasurer of state to the fiscal
20 officer of the most populous city in the county upon warrants
21 issued by the auditor of state.

22 Sec. 12. (a) If a tax is imposed under section 7 of this chapter, the
23 fiscal officer of the most populous city in the county shall establish
24 a supplemental auto rental excise tax fund.

25 (b) The city fiscal officer shall deposit in the supplemental auto
26 rental excise tax fund all amounts received under this chapter.

27 (c) Any money earned from the investment of money in the
28 supplemental auto rental excise tax fund becomes a part of the
29 fund.

30 (d) Money in the supplemental auto rental excise tax fund shall
31 be used by the city legislative body for capital improvements in the
32 city that promote conventions, tourism, or recreation.

33 Sec. 13. This chapter expires January 1, 2036.

34 SECTION 23. IC 6-6-9.7-7 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) The city-county
36 council of a county that contains a consolidated city may adopt an
37 ordinance to impose an excise tax, known as the county supplemental
38 auto rental excise tax, upon the rental of passenger motor vehicles and
39 trucks in the county for periods of less than thirty (30) days. The
40 ordinance must specify that the tax expires December 31, 2027.

41 (b) **Except as provided in subsection (c),** the county supplemental
42 auto rental excise tax that may be imposed upon the rental of a
43 passenger motor vehicle or truck equals two percent (2%) of the gross
44 retail income received by the retail merchant for the rental.

45 (c) **On or before June 30, 2005, the city-county council may, by**
46 **ordinance adopted by a majority of the members elected to the**
47 **city-county council, increase the tax imposed under subsection (a)**
48 **from two percent (2%) to four percent (4%). The ordinance must**
49 **specify that:**

50 (1) **if on December 31, 2027, there are obligations owed by the**
51 **capital improvement board of managers to the Indiana stadium**

and convention building authority or any state agency under IC 5-1-17-26, the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a) and through December 31, 2040; and

(2) the additional rate authorized under this subsection expires on:

(A) January 1, 2041;

(B) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26; or

(C) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

(d) The amount collected from that portion of county supplemental auto rental excise tax imposed under:

(1) subsection (b) and collected after December 31, 2027; and

(2) under subsection (c);

shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

~~(c)~~ (e) If a city-county council adopts an ordinance under subsection (a) ~~or (c)~~, the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

~~(d)~~ (f) If a city-county council adopts an ordinance under subsection (a) ~~or (c)~~ prior to June 1, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) ~~or (c)~~ on or after June 1, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

SECTION 24. IC 6-6-9.7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. This chapter expires January 1, ~~2028~~ 2041.

SECTION 25. IC 6-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or

"taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the river boat admissions tax (IC 4-33-12); the river boat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various ~~county~~ food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 26. IC 6-9-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The county council may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any commercial hotel, motel, inn, university memorial union, university residence hall, tourist camp, or tourist cabin located in a county described in section 1 of this chapter. The county treasurer shall allocate and distribute the tax revenues as provided in ~~section~~ **sections 7 and 9** of this chapter.

(b) The tax may not exceed the rate of ~~five~~ **six** percent (~~5%~~) (**6%**) on the gross retail income derived from lodging income only and shall be in addition to the state gross retail tax imposed under IC 6-2.5.

(c) The tax does not apply to gross retail income received in a transaction in which:

- (1) a student rents lodgings in a university residence hall while that student participates in a course of study for which the student receives college credit from a state university located in the county; or
- (2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than

twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration shall be applicable to the imposition and administration of the tax imposed by this section, except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid quarterly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

SECTION 27. IC 6-9-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The county treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter **that is attributable to an innkeeper's tax rate that is not more than five percent (5%)**.

(b) Money in the innkeeper's tax fund shall be expended in the following order:

(1) Through July 1999, not more than the revenue needed to service bonds issued under IC 36-10-3-40 through IC 36-10-3-45 and outstanding on January 1, 1993, may be used to service bonds. The county auditor shall make a semiannual distribution, at the same time property tax revenue is distributed, to a park and recreation district that has issued bonds payable from a county innkeeper's tax. Each semiannual distribution must be equal to one-half (1/2) of the annual principal and interest obligations on the bonds. Money received by a park and recreation district under this subdivision shall be deposited in a special fund to be used to service the bonds. During August 1999 the money that had been set aside to cover bond payments that remains after the bonds have been retired plus sixty percent (60%) of the tax revenue during August 1999 through December 1999 shall be distributed to the county treasurer to be used by the county park board, subject to appropriation by the county fiscal body.

(2) To the commission for its general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter. However, the amount that may be distributed under this subdivision during any particular year may not exceed the proceeds derived from an innkeeper's tax of two percent (2%) through December 1999 and fifty percent (50%) of the tax revenue beginning January 2000 and continuing through December 2014.

(3) For the period beginning July 1, 2002, through December 2014, fifty percent (50%) of the revenue to the county treasurer to be

credited by the treasurer to a special account. The county treasurer shall distribute money in the special account as follows:

(A) Seventy-five percent (75%) of the money in the special account shall be distributed to the department of natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

(B) Twenty-five percent (25%) of the money in the special account shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

(i) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and

(ii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities. For the period beginning July 1, 2002, and continuing through December 2006, the community development corporation shall provide not less than forty percent (40%) of the money received from the special account under this clause as a grant to a nonprofit corporation that leases land in the state park described in this subdivision for the nonprofit corporation's use in noncapital projects in the state park.

Money in the special account may not be used for any other purpose. The money credited to the account that has not been used as specified in this subdivision by January 1, 2015, shall be transferred to the commission to be used to make grants as provided in subsection (c)(2).

(c) Money in the innkeeper's tax fund subject to appropriation by the county council shall be allocated and distributed after December 2014 as follows:

(1) Fifty percent (50%) of the revenue to the commission for the commission's general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter.

(2) The remainder to the commission to be used solely to make grants for the development of recreation and tourism projects. The commission shall establish and make public the criteria that will be used in analyzing and awarding grants. At least ten percent (10%) but not more than fifteen percent (15%) of the grants may be awarded for noncapital projects. Grants may be made only to the following entities upon application by the executive of the entity:

(A) The county for deposit in a special account.

(B) The most populated city in the county for deposit in a special account.

(C) The second most populated city in the county for deposit in a special account.

(D) The Tippecanoe County Wabash River parkway commission, but only so long as the interlocal agreement among the political subdivisions listed in clauses (A) through (C) is in effect. Money received by the parkway commission shall be

segregated in a special account.

(d) Money credited to special accounts under subsection (c)(2) shall be used only for recreation or tourism projects, or both.

SECTION 28. IC 6-9-7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. (a) If the county fiscal body adopts an ordinance to increase the county's innkeeper's tax rate to a rate that exceeds five percent (5%), the county treasurer shall establish a supplemental innkeeper's tax fund. The treasurer shall deposit in the fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that exceeds five percent (5%).**

(b) Money in the fund may be used for any purpose that in the discretion of the county fiscal body promotes economic development in the county.

SECTION 29. IC 6-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 3. (a) Except as provided in subsection (b);** The tax imposed by section 2 of this chapter shall be at the rate of:

(1) before January 1, 2028, five percent (5%) on the gross income derived from lodging income only, **plus an additional one percent (1%)** if the fiscal body ~~does not adopt~~ **adopts** an ordinance under subsection (b), ~~and six percent (6%)~~ **plus an additional three percent (3%)** if the fiscal body adopts an ordinance under subsection ~~(b); and (d);~~

(2) after December 31, 2027, **and before January 1, 2041, five percent (5%), plus an additional one percent (1%) if the fiscal body adopts an ordinance under subsection (b), plus an additional three percent (3%) if the fiscal body adopts an ordinance under subsection (d); and**

(3) after December 31, 2040, five percent (5%).

(b) In any year subsequent to the initial year in which a tax is imposed under section 2 of this chapter, the fiscal body may, by ordinance adopted by at least two-thirds (2/3) of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter from five percent (5%) to six percent (6%). The ordinance must specify that the increase in the tax authorized under this subsection expires January 1, 2028.

(c) The amount collected from an increase adopted under subsection (b) shall be transferred to the capital improvement board of managers established by IC 36-10-9-3. The board shall deposit the revenues received under this subsection in a special fund. Money in the special fund may be used only for the payment of obligations incurred to expand a convention center, including:

(1) principal and interest on bonds issued to finance or refinance the expansion of a convention center; and

(2) lease agreements entered into to expand a convention center.

(d) On or before June 30, 2005, the fiscal body may, by ordinance adopted by a majority of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter by an additional three percent (3%) to a total rate of eight percent (8%) (or nine percent (9%) if the fiscal body has adopted an ordinance

under subsection (b) and that rate remains in effect). The ordinance must specify that the increase in the tax authorized under this subsection expires on:

(1) January 1, 2041;

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the authority created by IC 5-1-17 or to any state agency under IC 5-1-17-26; or

(3) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

If the fiscal body adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.

(e) The amount collected from an increase adopted under:

(1) subsection (b) and collected after December 31, 2027; and

(2) subsection (d);

shall be transferred to the capital improvement board of managers established by IC 36-10-9-3 or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 30. IC 6-9-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) **Subject to subsection (b)**, the county food and beverage tax imposed on a food or beverage transaction described in section 3 of this chapter equals one percent (1%) of the gross retail income received by the retail merchant from the transaction. **The tax authorized under this subsection expires January 1, 2041.**

(b) **On or before June 30, 2005, the city-county council of a county may, by a majority vote of the members elected to the city-county council, adopt an ordinance that increases the tax imposed under this chapter by an additional rate of one percent (1%) to a total rate of two percent (2%). The ordinance must specify that the increase in the tax authorized under this subsection expires on:**

(1) January 1, 2041;

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the

1 authority created by IC 5-1-17 or to any state agency under
2 IC 5-1-17-26; or

3 (3) October 1, 2005, if on that date there are no obligations
4 owed by the capital improvement board of managers to the
5 Indiana stadium and convention building authority or to any
6 state agency under a lease or a sublease of an existing capital
7 improvement entered into under IC 5-1-17, unless waived by
8 the budget director.

9 If a city-county council adopts an ordinance under this subsection,
10 it shall immediately send a certified copy of the ordinance to the
11 commissioner of the department of state revenue, and the increase
12 in the tax imposed under this chapter applies to transactions that
13 occur after June 30, 2005.

14 (c) For purposes of this chapter, the gross retail income received by
15 the retail merchant from ~~such~~ a transaction **that is subject to the tax**
16 **imposed by this chapter** does not include the amount of tax imposed
17 on the transaction under IC 6-2.5.

18 SECTION 31. IC 6-9-12-8 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The amounts
20 received from the county food and beverage tax shall be paid monthly
21 by the treasurer of the state to the treasurer of the capital improvement
22 board of managers of the county **or its designee** upon warrants issued
23 by the auditor of state. **So long as there are any current or future**
24 **obligations owed by the capital improvement board of managers to**
25 **the Indiana stadium and convention building authority created by**
26 **IC 5-1-17 or any state agency pursuant to a lease or other**
27 **agreement entered into between the capital improvement board of**
28 **managers and the Indiana stadium and convention building**
29 **authority or any state agency under IC 5-1-17-26, the capital**
30 **improvement board of managers or its designee shall deposit the**
31 **revenues received from that portion of the county food and**
32 **beverage tax imposed under:**

33 (1) section 5(a) of this chapter for revenue received after
34 December 31, 2027; and

35 (2) section 5(b) of this chapter;

36 **in a special fund, which may be used only for the payment of the**
37 **obligations described in this section.**

38 SECTION 32. IC 6-9-13-1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) Except as
40 provided in subsection (b), the city-county council of a county that
41 contains a consolidated first class city may adopt an ordinance to
42 impose an excise tax, known as the county admissions tax, for the
43 privilege of attending, before January 1, ~~2028~~, **2041**, any event and,
44 after December 31, ~~2027~~, **2040**, any professional sporting event:

45 (1) held in a facility financed in whole or in part by:

46 (A) bonds or notes issued under IC 18-4-17 (before its repeal on
47 September 1, 1981), IC 36-10-9, or IC 36-10-9.1; **or**

48 (B) **a lease or other agreement under IC 5-1-17; and**

49 (2) to which tickets are offered for sale to the public by:

50 (A) the box office of the facility; or

51 (B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

(1) An event sponsored by an educational institution or an association representing an educational institution.

(2) An event sponsored by a religious organization.

(3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.

(4) An event sponsored by a political organization.

(c) If a city-county council adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(d) If a city-county council adopts an ordinance under subsection (a) **or section 2 of this chapter** prior to June 1, the county admissions tax applies to admission charges collected after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) **or section 2 of this chapter** on or after June 1, the county admissions tax applies to admission charges collected after the last day of the month in which the ordinance is adopted.

SECTION 33. IC 6-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. **(a) Except as provided in subsection (b),** the county admissions tax equals five percent (5%) of the price for admission to any event described in section 1 of this chapter.

(b) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the county admissions tax from five percent (5%) to six percent (6%) of the price for admission to any event described in section 1 of this chapter.

(c) The amount collected from that portion of the county admissions tax imposed under:

(1) subsection (a) and collected after December 31, 2027; and

(2) subsection (b);

shall be distributed to the capital improvement board of managers or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county admissions tax imposed under subsection (b) in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 34. IC 6-9-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter applies to the following:

(1) A town:

(A) located in a county having a population of more than

- 1 sixty-five thousand (65,000) but less than seventy thousand
 2 (70,000); and
 3 (B) having a population of more than nine thousand (9,000).
 4 (2) A town:
 5 (A) located in a county having a population of more than
 6 thirty-four thousand nine hundred (34,900) but less than
 7 thirty-four thousand nine hundred fifty (34,950); and
 8 (B) having a population of less than one thousand (1,000).
 9 (3) A town:
 10 (A) located in a county having a population of more than one
 11 hundred thousand (100,000) but less than one hundred five
 12 thousand (105,000); and
 13 (B) having a population of more than fifteen thousand (15,000).
 14 (4) A town:
 15 (A) located in a county having a population of more than one
 16 hundred thousand (100,000) but less than one hundred five
 17 thousand (105,000); and
 18 (B) having a population of more than ten thousand (10,000) but
 19 less than fifteen thousand (15,000).
 20 **(5) A town:**
 21 **(A) located in a county having a population of more than one**
 22 **hundred thousand (100,000) but less than one hundred five**
 23 **thousand (105,000); and**
 24 **(B) having a population of more than five thousand (5,000)**
 25 **but less than six thousand three hundred (6,300).**
 26 **(6) A city having a population of more than eleven thousand**
 27 **five hundred (11,500) but less than eleven thousand seven**
 28 **hundred forty (11,740).**
 29 SECTION 35. IC 6-9-27-3 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The fiscal body
 31 of the ~~town~~ **municipality** may adopt an ordinance to impose an excise
 32 tax, known as the ~~town~~ **municipal** food and beverage tax, on
 33 transactions described in section 4 of this chapter.
 34 (b) If a fiscal body adopts an ordinance under subsection (a), the
 35 fiscal body shall immediately send a certified copy of the ordinance to
 36 the department of state revenue.
 37 (c) If a fiscal body adopts an ordinance under subsection (a), the ~~town~~
 38 **municipal** food and beverage tax applies to transactions that occur after
 39 the last day of the month that succeeds the month in which the
 40 ordinance was adopted.
 41 SECTION 36. IC 6-9-27-4 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as
 43 provided in subsection (c), a tax imposed under section 3 of this chapter
 44 applies to a transaction in which food or beverage is furnished,
 45 prepared, or served:
 46 (1) for consumption at a location or on equipment provided by a
 47 retail merchant;
 48 (2) in the **city or** town in which the tax is imposed; and
 49 (3) by a retail merchant for consideration.
 50 (b) Transactions described in subsection (a)(1) include transactions
 51 in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The ~~town~~ **municipal** food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 37. IC 6-9-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The ~~town~~ **municipal** food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 38. IC 6-9-27-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the **city or** town fiscal officer upon warrants issued by the auditor of state.

SECTION 39. IC 6-9-27-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter **by a town described in section 1 of this chapter**, the town fiscal officer shall establish a food and beverage tax receipts fund.

(b) The town fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 40. IC 6-9-27-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8.5. (a) If a tax is imposed under section 3 of this chapter by a city described in section 1(6) of this chapter, the city fiscal officer shall establish a food and beverage tax receipts fund.**

(b) The city fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

SECTION 41. IC 6-9-27-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except as

provided in subsection (b), money in the fund **established under section 8 of this chapter** shall be used by the town for the financing, construction, operation, or maintenance of the following:

- (1) Sanitary sewers or wastewater treatment facilities.
- (2) Park or recreational facilities.
- (3) Drainage or flood control facilities.
- (4) Water treatment, storage, or distribution facilities.

(b) The fiscal body of the town may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the town or a special taxing district in the town to provide the facilities described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (a) is enforceable under IC 5-1-14-4.

SECTION 42. IC 6-9-27-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. (a) A city shall use money in the fund established under section 8.5 of this chapter for only the following:**

- (1) Renovating the city hall.**
- (2) Constructing new police or fire stations, or both.**
- (3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.**
- (4) Improving the city's storm water drainage systems.**
- (5) Other projects involving the city's water system or protecting the city's well fields, as determined by the city fiscal body.**

Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, 2010.

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

SECTION 43. IC 6-9-27-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) **or 9.5(b)** of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 44. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 35. Stadium and Convention Building Food and Beverage Tax Funding

Sec. 1. This chapter applies to Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan, and Shelby counties (referred to as counties in this chapter) and to the cities or towns of Carmel, Fishers, Greenfield, Lebanon, Noblesville, Westfield, and Zionsville that are located in those counties (referred to as municipalities in this chapter).

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by IC 5-1-17.

Sec. 4. As used in this chapter, "capital improvement board" means the capital improvement board of managers created by IC 36-10-9-3.

Sec. 5. (a) Except as provided in subsection (d), the fiscal body of a county may adopt an ordinance not later than June 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the county.

(b) Except as provided in subsection (d), if the county in which the municipality is located has adopted an ordinance imposing an excise tax under subsection (a), the fiscal body of a municipality may adopt an ordinance not later than September 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the municipality.

(c) The rate of the tax imposed under this chapter equals one percent (1%) of the gross retail income on the transaction. With respect to an excise tax in the municipalities set forth in IC 6-9-27-1(1) (Mooreville), IC 6-9-27-1(3) (Plainfield), IC 6-9-27-1(4) (Brownsburg), IC 6-9-27-1(5) (Avon), and IC 6-9-27-1(6) (Martinsville), the excise tax imposed by the county is in addition to the food and beverage tax imposed by those municipalities. With respect to an excise tax imposed by a county under subsection (a), the excise tax imposed by a municipality under subsection (b) is in addition to the food and beverage tax imposed by the county in which the municipality is located. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5, IC 6-9-27, or this chapter.

(d) If the Marion County city-county council does not adopt all the ordinances required to be adopted by it under IC 5-1-17-25 on or before June 30, 2005, the counties and municipalities described in section 1 of this chapter are no longer subject to the provisions of this chapter. In that event, the fiscal body of the county or municipality may not adopt an ordinance to impose the excise tax authorized by this chapter, and any ordinance adopted by the fiscal body under subsection (a) or (b) is no longer effective.

Sec. 6. If a fiscal body adopts an ordinance under section 5 of this

chapter, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 7. If a fiscal body adopts an ordinance under section 5 of this chapter, the food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 8. Except as provided in section 10 of this chapter, a tax imposed under section 5 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county or municipality, or both, in which the tax is imposed; and
- (3) by a retail merchant for consideration.

Sec. 9. Transactions described in section 8(1) of this chapter include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 10. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 11. The county fiscal body may adopt an ordinance requiring that any tax imposed under this chapter be reported on forms approved by the county treasurer and that the tax be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected, and the county treasurer is responsible for collecting the tax and enforcing any of the provisions of IC 6-2.5 with respect to the tax. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 12. (a) As long as there are any current or future obligations owed by the capital improvement board to the authority or any

1 state agency under a lease or other agreement entered into between
 2 the capital improvement board and the authority or any state
 3 agency pursuant to IC 5-1-17-26, fifty percent (50%) of the
 4 amounts received from the taxes imposed under this chapter by
 5 counties shall be paid monthly by the county treasurer, if the tax is
 6 being paid to the county treasurer, to the treasurer of state. This
 7 amount plus fifty percent (50%) of the amounts received by the
 8 state from the taxes imposed under this chapter by counties shall
 9 be paid monthly by the treasurer of state to the treasurer of the
 10 capital improvement board or its designee upon warrants issued by
 11 the auditor of state. The remainder that is received by the state
 12 shall be paid monthly by the treasurer of state to the county fiscal
 13 officer upon warrants issued by the auditor of state. In any state
 14 fiscal year, if the total amount of the taxes imposed under this
 15 chapter by all the counties and paid to the treasurer of the capital
 16 improvement board or its designee under this subsection equals
 17 five million dollars (\$5,000,000), the entire remainder of the taxes
 18 imposed by a county under this chapter during that state fiscal year
 19 shall be retained by the county treasurer or paid by the treasurer
 20 of state to the fiscal officer of the county, upon warrants issued by
 21 the auditor of state.

22 (b) If there are then existing no obligations of the capital
 23 improvement board described in subsection (a), the entire amount
 24 received from the taxes imposed by a county under this chapter
 25 shall be paid monthly by the treasurer of state to the county fiscal
 26 officer upon warrants issued by the auditor of state.

27 (c) The entire amount of the taxes paid to the treasurer of the
 28 capital improvement board or its designee under subsection (a)
 29 shall be deposited in a special fund and used only for the payment
 30 or to secure the payment of obligations of the capital improvement
 31 board described in subsection (a). If the taxes are not used for the
 32 payment or to secure the payment of obligations of the capital
 33 improvement board described in subsection (a), the taxes shall be
 34 returned by the capital improvement board to the treasurer of state
 35 who shall return the taxes to the respective counties that
 36 contributed the taxes.

37 (d) The entire amount received from the taxes imposed by a
 38 municipality under this chapter shall be paid monthly by the
 39 treasurer of state to the municipality's fiscal officer upon warrants
 40 issued by the auditor of state.

41 Sec. 13. (a) If a tax is imposed under section 5 of this chapter, the
 42 county's or municipality's fiscal officer, or both, shall establish a
 43 food and beverage tax fund.

44 (b) The fiscal officer shall deposit in the fund all amounts
 45 received by the fiscal officer under this chapter.

46 (c) Any money earned from the investment of money in the fund
 47 becomes a part of the fund.

48 Sec. 14. Money in the food and beverage tax fund shall be used by
 49 the county or municipality:

50 (1) to reduce the county's or municipality's property tax levy
 51 for a particular year at the discretion of the county or

municipality, but this use does not reduce the maximum permissible levy under IC 6-1.1-18.5 for the county or municipality; or

(2) for any legal or corporate purpose of the county or municipality, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

Revenue derived from the imposition of a tax under this chapter may be treated by a county or municipality as additional revenue for the purpose of fixing its budget for the budget year during which the revenues are to be distributed to the county or municipality.

Sec. 15. (a) If there are no obligations of the capital improvement board described in section 12(a) of this chapter then outstanding and there are no bonds, leases, or other obligations then outstanding for which a pledge has been made under section 14 of this chapter, the fiscal body may adopt an ordinance, after December 31, 2009, and before December 1, 2010, or any year thereafter, that repeals the ordinance adopted under section 5 of this chapter.

(b) An ordinance adopted under subsection (a) takes effect January 1 immediately following the date of its adoption. If the fiscal body adopts such an ordinance, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) A tax imposed under this chapter terminates on January 1 of the year immediately following the year in which the last payment obligation of the capital improvement board is made with respect to any bond, lease, or other obligation described in section 12(a) of this chapter that existed on July 1, 2006.

Sec. 16. With respect to obligations of the capital improvement board described in section 12(a) of this chapter and bonds, leases, or other obligations for which a pledge has been made under section 14 of this chapter, the general assembly covenants with the holders of these obligations that:

(1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and

(2) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed under this chapter may be used;

as long as the payment of any of those obligations is outstanding.

SECTION 45. IC 6-9-36 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

Chapter 36. Lake County and Porter County Food and Beverage Tax

Sec. 1. This chapter applies to the following:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred

forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. (a) The fiscal body of a county described in section 1 of this chapter may adopt an ordinance to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 4 and 5 of this chapter that occur anywhere within the county.

(b) The following apply if the fiscal body of the county imposes a tax under this chapter:

(1) The rate of the tax equals one percent (1%) of the gross retail income on the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or this chapter.

(2) The fiscal body shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(3) The tax applies to transactions that occur after the last day of the month that follows the month in which the ordinance was adopted.

(4) The fiscal body may adopt an ordinance to rescind the tax. The rescission of the tax takes effect after the last day of the month that follows the month in which the ordinance to rescind the tax is adopted. However, the fiscal body may not rescind the tax if there are bonds outstanding or leases or other obligations for which the tax has been pledged under IC 36-7.5.

Sec. 4. Except as provided in section 6 of this chapter, a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county or political subdivision, or both, in which the tax is imposed; and

(3) by a retail merchant for consideration.

Sec. 5. Transactions described in section 4(1) of this chapter include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not

include a container or packaging used to transport the food).

Sec. 6. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 7. The tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 8. (a) The entire amount received from the taxes imposed by a county under this chapter shall be paid monthly by the treasurer of state to the treasurer of the northwest Indiana regional development authority established by IC 36-7.5-2-1.

(b) The taxes paid to the treasurer of the development authority under this section shall be deposited in the development authority fund established under IC 36-7.5-4-1.

SECTION 46. IC 6-9-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 37. Hendricks County Innkeeper's Tax

Sec. 1. (a) This chapter applies to a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) that had adopted an innkeeper's tax under IC 6-9-18 before July 1, 2005.

(b) The:

- (1) convention, visitor, and tourism promotion fund;
- (2) convention and visitor commission;
- (3) innkeeper's tax rate; and
- (4) tax collection procedures;

established under IC 6-9-18 before July 1, 2005, remain in effect and govern the county's innkeeper's tax until amended under this chapter.

(c) A member of the convention and visitor commission established under IC 6-9-18 before July 1, 2005, shall serve a full term of office. If a vacancy occurs, the appointing authority shall appoint a qualified replacement as provided in this chapter. The appointing authority shall make other subsequent appointments to the commission as provided in this chapter.

Sec. 2. As used in this chapter:

- (1) "executive" and "fiscal body" have the meanings set forth in IC 36-1-2; and
- (2) "gross retail income" and "person" have the meanings set forth in IC 6-2.5-1.

Sec. 3. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

- (1) hotel;

1 (2) motel;
 2 (3) boat motel;
 3 (4) inn;
 4 (5) college or university memorial union;
 5 (6) college or university residence hall or dormitory; or
 6 (7) tourist cabin;
 7 located in the county.

8 (b) The tax does not apply to gross income received in a
 9 transaction in which:

10 (1) a student rents lodgings in a college or university residence
 11 hall while that student participates in a course of study for
 12 which the student receives college credit from a college or
 13 university located in the county; or

14 (2) a person rents a room, lodging, or accommodations for a
 15 period of thirty (30) days or more.

16 (c) The tax may not exceed the rate of eight percent (8%) on the
 17 gross retail income derived from lodging income only and is in
 18 addition to the state gross retail tax imposed under IC 6-2.5.

19 (d) The county fiscal body may adopt an ordinance to require
 20 that the tax be reported on forms approved by the county treasurer
 21 and that the tax shall be paid monthly to the county treasurer. If
 22 such an ordinance is adopted, the tax shall be paid to the county
 23 treasurer not more than twenty (20) days after the end of the
 24 month the tax is collected. If such an ordinance is not adopted, the
 25 tax shall be imposed, paid, and collected in exactly the same
 26 manner as the state gross retail tax is imposed, paid, and collected
 27 under IC 6-2.5.

28 (e) All of the provisions of IC 6-2.5 relating to rights, duties,
 29 liabilities, procedures, penalties, definitions, exemptions, and
 30 administration are applicable to the imposition and administration
 31 of the tax imposed under this section except to the extent those
 32 provisions are in conflict or inconsistent with the specific provisions
 33 of this chapter or the requirements of the county treasurer. If the
 34 tax is paid to the department of state revenue, the return to be filed
 35 for the payment of the tax under this section may be either a
 36 separate return or may be combined with the return filed for the
 37 payment of the state gross retail tax as the department of state
 38 revenue may, by rule, determine.

39 (f) If the tax is paid to the department of state revenue, the
 40 amounts received from the tax imposed under this section shall be
 41 paid monthly by the treasurer of state to the county treasurer upon
 42 warrants issued by the auditor of state.

43 Sec. 4. (a) The county treasurer shall establish a convention,
 44 visitor, and tourism promotion fund. The treasurer shall deposit in
 45 this fund all amounts the treasurer receives under this chapter.

46 (b) The county auditor shall issue a warrant directing the county
 47 treasurer to transfer money from the convention, visitor, and
 48 tourism promotion fund to the treasurer of the commission
 49 established under section 5 of this chapter if the commission
 50 submits a written request for the transfer.

51 (c) Subject to subsection (e), money in a convention, visitor, and

1 tourism promotion fund, or money transferred from such a fund
2 under subsection (b), may be expended:

3 (1) to promote and encourage conventions, visitors, and
4 tourism within the county; and

5 (2) for the development of a county park, a county fairground,
6 or a county promotion.

7 Expenditures under subdivision (1) may include, but are not
8 limited to, expenditures for advertising, promotional activities,
9 trade shows, special events, and recreation.

10 (d) If before July 1, 1997, the county issued a bond with a pledge
11 of revenues from the tax imposed under IC 6-9-18-3, the county
12 shall continue to expend money from the fund for that purpose
13 until the bond is paid.

14 (e) Tax revenues attributable to a tax rate that exceeds five
15 percent (5%) must be divided equally between the expenditures
16 authorized under subsection (c)(1) and (c)(2).

17 Sec. 5. (a) The county executive shall create a commission to
18 promote the development and growth of the convention, visitor,
19 and tourism industry in the county. If two (2) or more adjoining
20 counties desire to establish a joint commission, the counties shall
21 enter into an agreement under IC 36-1-7.

22 (b) The county executive shall determine the number of
23 members, which must be an odd number, to be appointed to the
24 commission. A simple majority of the members must be:

25 (1) engaged in a convention, visitor, or tourism business; or

26 (2) involved in or promoting conventions, visitors, or tourism.

27 If available and willing to serve, at least two (2) of the members
28 must be engaged in the business of renting or furnishing rooms,
29 lodging, or accommodations (as described in section 3 of this
30 chapter). Not more than one (1) member may be affiliated with the
31 same business entity. Not more than a simple majority of the
32 members may be affiliated with the same political party. Each
33 member must reside in the county. The county executive shall also
34 determine who will make the appointments to the commission,
35 except that the executive of the largest municipality in the county
36 shall appoint a number of the members of the commission, which
37 number shall be in the same ratio to the total size of the commission
38 (rounded off to the nearest whole number) that the population of
39 the largest municipality bears to the total population of the county.

40 (c) If a municipality other than the largest municipality in the
41 county collects fifty percent (50%) or more of the tax revenue
42 collected under this chapter during the three (3) month period
43 following imposition of the tax, the executive of the municipality
44 shall appoint the same number of members to the commission that
45 the executive of the largest municipality in the county appoints
46 under subsection (b).

47 (d) Except as provided in subsection (c), all terms of office of
48 commission members begin on January 1. Initial appointments
49 must be for staggered terms, with subsequent appointments for two
50 (2) year terms. A member whose term expires may be reappointed
51 to serve another term. If a vacancy occurs, the appointing authority

1 shall appoint a qualified person to serve for the remainder of the
 2 term. If an initial appointment is not made by February 1 or a
 3 vacancy is not filled within thirty (30) days, the commission shall
 4 appoint a member by majority vote.

5 (e) A member of the commission may be removed for cause by
 6 the member's appointing authority.

7 (f) Members of the commission may not receive a salary.
 8 However, commission members are entitled to reimbursement for
 9 necessary expenses incurred in the performance of their respective
 10 duties.

11 (g) Each commission member, before entering the member's
 12 duties, shall take an oath of office in the usual form, to be endorsed
 13 upon the member's certificate of appointment and promptly filed
 14 with the clerk of the circuit court of the county.

15 (h) The commission shall meet after January 1 each year for the
 16 purpose of organization. It shall elect one (1) of its members
 17 president, another vice president, another secretary, and another
 18 treasurer. The members elected to those offices shall perform the
 19 duties pertaining to the offices. The first officers chosen shall serve
 20 from the date of their election until their successors are elected and
 21 qualified. A majority of the commission constitutes a quorum, and
 22 the concurrence of a majority of the commission is necessary to
 23 authorize any action.

24 **Sec. 6. (a) The commission may:**

25 (1) accept and use gifts, grants, and contributions from any
 26 public or private source, under terms and conditions that the
 27 commission considers necessary and desirable;

28 (2) sue and be sued;

29 (3) enter into contracts and agreements;

30 (4) make rules necessary for the conduct of its business and the
 31 accomplishment of its purposes;

32 (5) receive and approve, alter, or reject requests and proposals
 33 for funding by corporations qualified under subdivision (6);

34 (6) after its approval of a proposal, transfer money, quarterly
 35 or less frequently, from the fund established under section 4(a)
 36 of this chapter, or from money transferred from that fund to
 37 the commission's treasurer under section 4(b) of this chapter,
 38 to any Indiana nonprofit corporation to promote and
 39 encourage conventions, visitors, or tourism in the county; and

40 (7) require financial or other reports from any corporation that
 41 receives funds under this chapter.

42 (b) All expenses of the commission shall be paid from the fund
 43 established under section 4(a) of this chapter or from money
 44 transferred from that fund to the commission's treasurer under
 45 section 4(b) of this chapter. The commission shall annually prepare
 46 a budget, taking into consideration the recommendations made by
 47 a corporation qualified under subsection (a)(6), and submit it to the
 48 county fiscal body for its review and approval. An expenditure may
 49 not be made under this chapter unless it is in accordance with an
 50 appropriation made by the county fiscal body in the manner
 51 provided by law.

1 **Sec. 7. All money coming into possession of the commission shall**
 2 **be deposited, held, secured, invested, and paid in accordance with**
 3 **statutes relating to the handling of public funds. The handling and**
 4 **expenditure of money coming into possession of the commission is**
 5 **subject to audit and supervision by the state board of accounts.**

6 **Sec. 8. (a) A member of the commission who knowingly:**

7 **(1) approves the transfer of money to any person or**
 8 **corporation not qualified under law for that transfer; or**

9 **(2) approves a transfer for a purpose not permitted under law;**
 10 **commits a Class D felony.**

11 **(b) A person who receives a transfer of money under this chapter**
 12 **and knowingly uses that money for any purpose not permitted**
 13 **under this chapter commits a Class D felony.**

14 **SECTION 47. IC 6-9-38 IS ADDED TO THE INDIANA CODE AS**
 15 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
 16 **1, 2005]:**

17 **Chapter 38. Food and Beverage Taxes in Wayne County**

18 **Sec. 1. This chapter applies to a county having a population of**
 19 **more than seventy-one thousand (71,000) but less than seventy-one**
 20 **thousand four hundred (71,400).**

21 **Sec. 2. Except as otherwise provided in this chapter, the**
 22 **definitions in IC 36-1-2 apply throughout this chapter.**

23 **Sec. 3. As used in this chapter, "beverage" includes an alcoholic**
 24 **beverage.**

25 **Sec. 4. As used in this chapter, "bonds" has the meaning set forth**
 26 **in IC 5-1-11-1.**

27 **Sec. 5. As used in this chapter, "department" means the**
 28 **department of state revenue.**

29 **Sec. 6. As used in this chapter, "economic development project"**
 30 **has the meaning set forth in IC 6-3.5-7-13.1.**

31 **Sec. 7. As used in this chapter, "food" includes any food product.**

32 **Sec. 8. As used in this chapter, "gross retail income" has the**
 33 **meaning set forth in IC 6-2.5-1-5.**

34 **Sec. 9. As used in this chapter, "obligations" has the meaning set**
 35 **forth in IC 5-1-3-1(b).**

36 **Sec. 10. As used in this chapter, "person" has the meaning set**
 37 **forth in IC 6-2.5-1-3.**

38 **Sec. 11. As used in this chapter, "retail merchant" has the**
 39 **meaning set forth in IC 6-2.5-1-8.**

40 **Sec. 12. As used in this chapter, "unit" means:**

41 **(1) a county described in section 1 of this chapter; or**

42 **(2) a city or town located in the county described in section 1 of**
 43 **this chapter.**

44 **Sec. 13. (a) After January 1 but before August 1, the fiscal body**
 45 **of a unit may adopt an ordinance to impose an excise tax known as**
 46 **the unit's food and beverage tax on transactions described in**
 47 **section 14 of this chapter. The fiscal body of a unit other than a**
 48 **county may not adopt an ordinance under this chapter until after**
 49 **July 31, 2006, unless the fiscal body of the county adopts a**
 50 **resolution to relinquish its exclusive authority to adopt an**
 51 **ordinance under this chapter before August 1, 2006. If a county**

1 fiscal body adopts a resolution under this subsection, the county
 2 fiscal body shall send a certified copy of the resolution to the
 3 executive of each city and town located in the county.

4 (b) Before a fiscal body may adopt an ordinance imposing a food
 5 and beverage tax, the fiscal body must hold a public hearing on the
 6 proposed ordinance, with notice of the time, date, and place of the
 7 public hearing given in accordance with IC 5-3-1.

8 (c) If the fiscal body of a county adopts an ordinance to impose
 9 a food and beverage tax under this chapter, the county executive
 10 must also adopt a substantially similar ordinance to impose the tax.

11 (d) If an ordinance is adopted under subsection (c), the county
 12 executive shall immediately send a certified copy of the ordinance
 13 to the department.

14 (e) If a unit other than a county adopts an ordinance under this
 15 section, the unit's executive shall immediately send a certified copy
 16 of the ordinance to the department.

17 Sec. 14. (a) Except as provided in subsection (c), a food and
 18 beverage tax imposed under section 13 of this chapter applies to
 19 any transaction in which food or a beverage is furnished, prepared,
 20 or served:

21 (1) for consumption at a location, or on equipment, provided by
 22 a retail merchant;

23 (2) in the unit in which the tax is imposed; and

24 (3) by the retail merchant for consideration.

25 If both a county and another unit located in the county impose a
 26 tax under this chapter, the tax imposed by the county does not
 27 apply within the territory of the other unit imposing the tax.

28 (b) Transactions described in subsection (a)(1) include
 29 transactions in which food or a beverage is:

30 (1) served by a retail merchant off the merchant's premises;

31 (2) sold by a retail merchant who ordinarily bags, wraps, or
 32 packages the food or beverage for immediate consumption on
 33 or near the retail merchant's premises, including food or
 34 beverages sold on a "take out" or "to go" basis; or

35 (3) sold by a street vendor.

36 (c) A food and beverage tax imposed under this chapter does not
 37 apply to the furnishing, preparing, or serving of any food or
 38 beverage in a transaction that is exempt, or to the extent the
 39 transaction is exempt, from the state gross retail tax imposed under
 40 IC 6-2.5.

41 Sec. 15. The food and beverage tax imposed on a food or
 42 beverage transaction described in section 14 of this chapter is equal
 43 to one percent (1%) of the gross retail income received by the retail
 44 merchant from the transaction. For purposes of this chapter, the
 45 gross retail income received by the retail merchant from such a
 46 transaction does not include the amount of tax imposed on the
 47 transaction under IC 6-2.5.

48 Sec. 16. (a) If no bonds, leases, obligations, or other evidences of
 49 indebtedness of a unit that are payable from a food and beverage
 50 tax imposed under this chapter are outstanding, the unit's fiscal
 51 body may adopt an ordinance to repeal the unit's food and

1 beverage tax.

2 (b) An ordinance described in subsection (a) must be adopted
3 after January 1 but before September 1 of a year. The fiscal body
4 shall send a certified copy of the ordinance adopted under this
5 section to the department.

6 Sec. 17. If a fiscal body adopts an ordinance under this chapter,
7 the ordinance takes effect January 1 of the year following the year
8 in which the ordinance is adopted.

9 Sec. 18. A food and beverage tax imposed under this chapter
10 shall be imposed, paid, and collected in the same manner that the
11 state gross retail tax is imposed, paid, and collected under IC 6-2.5.
12 However, the return that is filed for the payment of the tax may be
13 made on a separate return or may be combined with the return
14 filed for the payment of the state gross retail tax as prescribed by
15 the department.

16 Sec. 19. (a) The department shall notify the county auditor of a
17 county containing a unit that imposes a food and beverage tax
18 under this chapter of the amount of tax paid in the unit.

19 (b) The amounts received from a food and beverage tax imposed
20 under this chapter shall be paid monthly by the treasurer of state
21 on warrants issued by the auditor of state to the county auditor of
22 the county in which the unit that imposed the tax is located.

23 Sec. 20. A county auditor shall establish for each unit in the
24 county that imposes a tax under this chapter a local food and
25 beverage tax revenue fund into which all amounts received monthly
26 from the treasurer of state under this chapter shall be deposited.

27 Sec. 21. Revenue derived from a tax imposed under this chapter
28 may be treated by a unit as additional revenue for the purpose of
29 fixing its budget for the budget year during which the revenues are
30 to be distributed to the unit.

31 Sec. 22. A unit may use revenues from a tax imposed under this
32 chapter for one (1) or more of the following purposes:

33 (1) To promote and encourage conventions, visitors, and
34 tourism within the unit.

35 (2) To promote and encourage economic development within
36 the unit.

37 (3) Paying debt service or lease rentals on:

38 (A) bonds;

39 (B) leases;

40 (C) obligations; or

41 (D) any other evidence of indebtedness of the unit;

42 for a project described in subdivisions (1) and (2).

43 Sec. 23. The department of local government finance may not
44 reduce a unit's property tax levy by the amount of revenue received
45 from a tax imposed under this chapter.

46 Sec. 24. (a) The food and beverage tax revenue committee is
47 established to make recommendations concerning the use of money
48 in the funds established under section 20 of this chapter. The
49 committee consists of the following members:

50 (1) One (1) resident of the county representing each of the three

51 (3) commissioner districts, appointed by the county executive.

Not more than two (2) of the members appointed under this subdivision may be from the same political party.

(2) Two (2) residents of the county, appointed by the county fiscal body. The two (2) appointees may not be from the same political party.

(3) Two (2) residents of the largest city in the county, appointed by the city executive. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in economic development.

(4) Two (2) residents of the largest city in the county, appointed by the city fiscal body. The two (2) appointees under this subdivision may not be from the same political party. One (1) appointee must be interested in tourism.

(b) Except as provided in subsection (c), the term of a member appointed to the food and beverage tax revenue committee under this section is four (4) years.

(c) The initial terms of office for the members appointed to the food and beverage tax revenue committee under subsection (a) are as follows:

(1) Of the members appointed under subsection (a)(1), one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for three (3) years, and one (1) member shall be appointed for four (4) years.

(2) Of the members appointed under subsection (a)(2), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(3) Of the members appointed under subsection (a)(3), one (1) member shall be appointed for two (2) years and one (1) member shall be appointed for three (3) years.

(4) Of the members appointed under subsection (a)(4), one (1) member shall be appointed for three (3) years and one (1) member shall be appointed for four (4) years.

(d) At the expiration of a term under subsection (c), the member whose term expired shall be reappointed to the food and beverage tax revenue committee to fill the vacancy caused by the expiration.

(e) The food and beverage tax revenue committee is abolished on the date that the county fiscal body adopts a resolution abolishing the food and beverage tax revenue committee. A county fiscal body may adopt a resolution under this subsection if the county fiscal body determines that each unit in the county that had imposed a tax under this chapter has adopted an ordinance to rescind the tax.

Sec. 25. The general assembly covenants with each unit subject to this chapter and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of the county payable from a tax imposed under this chapter that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of a tax imposed under this chapter so long as the principal, interest, or lease rentals due under those bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a tax imposed under this chapter remain unpaid.

Sec. 26. If a unit incurs indebtedness payable from a tax imposed by the unit under this chapter, the unit's food and beverage tax terminates two (2) years after the retirement of the debt financed by the food and beverage tax.

SECTION 48. IC 7.1-3-20-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center

for the visual and performing arts to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

(1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.

(2) A county courthouse is located within the district.

(3) A historic opera house listed on the National Register of Historic Places is located within the district.

(4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).

SECTION 49. IC 7.1-3-20-16.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.1. (a) This section applies to a municipal riverfront development project authorized under section 16(d) of this chapter.

(b) In order to qualify for a permit, an applicant must demonstrate that the municipal riverfront development project area where the permit is to be located meets the following criteria:

(1) The project boundaries must border on at least one (1) side of a river.

(2) The proposed permit premises may not be located more than:

(A) one thousand five hundred (1,500) feet; or

(B) three (3) city blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit premises are located within:

(A) an economic development area, a blighted area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1; **or**

(B) an economic development project district under IC 36-7-15.2 or IC 36-7-26; **or**

(C) a community revitalization enhancement district designated under IC 36-7-13-12.1.

(4) The project must be funded in part with state and city money.

(5) The boundaries of the municipal riverfront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) of the city in which the project is located.

(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:

(1) A detailed map showing:

(A) definite boundaries of the entire municipal riverfront development project; and

(B) the location of the proposed permit within the project.

(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.

(3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

(1) All other requirements of this section and section 16(d) of this chapter are satisfied.

(2) The proposed premises is located not more than:

(A) three thousand (3,000) feet; or

(B) six (6) blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution (as defined in IC 20-12-0.5-1).

(e) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3.

SECTION 50. IC 8-9.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this

chapter, "authority" means:

- (1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;
- (2) the commission established under IC 4-13.5;
- (3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5;
- ~~or~~
- (4) a fund or program established under IC 13-18-13 or IC 13-18-21;
- (5) the authority established under IC 4-4-11; or**
- (6) the authority established under IC 5-1-17.**

SECTION 51. IC 8-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

- (1) construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;
- (2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;
- (3) finance, develop, construct, reconstruct, improve, or maintain ~~public improvements such as roads and streets, sewerlines, waterlines, and sidewalks~~ for manufacturing, ~~or commercial, or~~ **public transportation** activities within a county through which a toll road passes; ~~if these improvements are within the county and are within an area that is located:~~
 - ~~(A) ten (10) miles on either side of the center line of a toll road project; or~~
 - ~~(B) two (2) miles on either side of the center line of any limited access highway that interchanges with a toll road project;~~
- (4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ~~ten (10) miles of the center line of a~~ **county through which a toll road project passes** and that:
 - (A) interchanges with a toll road project; or
 - (B) intersects with a road or a street that interchanges with a toll road project;
- (5) ~~assist in~~ **finance improvements necessary for** developing ~~existing~~ transportation corridors in northwestern Indiana; and
- (6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

SECTION 52. IC 8-15-2-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. Subject to the provisions and requirements of any trust agreement providing for the issuance of toll road revenue bonds and only to the extent permitted by such trust agreement, the authority shall fix the tolls for any toll road under its jurisdiction. ~~so that, to the extent feasible, the tolls for any class of traffic shall be substantially uniform according to the mileage between interchanges. No reduced rate of toll shall be allowed within any such class except through the use of commutation or other tickets or privileges based upon frequency or volume of use.~~

SECTION 53. IC 8-15-2-14.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.7. (a) As used in this section, "development authority" refers to the development authority established under IC 36-7.5-2-1.

(b) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsection (d), the authority shall distribute to the development authority in calendar year 2006 and calendar year 2007 from revenues accruing to the authority from the toll road at least five million dollars (\$5,000,000) and not more than ten million dollars (\$10,000,000) each year. The amount of the distribution for a year shall be determined by the authority. The amount to be distributed each year shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of 2006 and 2007. The amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(c) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsections (d) and (e), after 2007 the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(d) A distribution may be made by the authority to the development authority under subsection (b) or (c) only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

(e) A distribution may be made by the authority to the development authority under subsection (c) only after the budget committee has reviewed the development authority's comprehensive strategic development plan under IC 36-7.5-3-4 and the director of the office of management and budget has approved

1 the comprehensive strategic development plan.

2 (f) If the Indiana Toll Road is sold or leased before January 1,
3 2008 (other than a lease to the department), and the sale or lease
4 agreement does not require the purchaser or lessee to continue
5 making the distributions required by subsection (b), the treasurer
6 of state shall pay an amount equal to the greater of zero (0) or the
7 result of:

8 (1) twenty million dollars (\$20,000,000); minus

9 (2) any amounts transferred to the development authority
10 under this subsection before the sale or lease;
11 from the state general fund to the development authority fund
12 established under IC 36-7.5-4-1.

13 (g) Amounts distributed or paid to the development authority
14 under this section may be used for any purpose of the development
15 authorized under IC 36-7.5.

16 (h) The amounts necessary to make any distributions or
17 payments required or authorized by this section are appropriated.

18 SECTION 54. IC 9-13-2-170 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 170. "Special group"
20 means:

21 (1) a class or group of persons that the bureau finds:

22 ~~(1) that:~~

23 (A) have made significant contributions to the United States,
24 Indiana, or the group's community or

25 ~~(B) are descendants of native or pioneer residents of Indiana;~~

26 ~~(2) (B) are organized as a nonprofit organization (as defined~~
27 ~~under Section 501(c) of the Internal Revenue Code);~~

28 ~~(3) (C) are organized for nonrecreational purposes; and~~

29 ~~(4) (D) are organized as a separate, unique organization or as a~~
30 ~~coalition of separate, unique organizations; or~~

31 (2) a National Football League franchised professional football
32 team.

33 SECTION 55. IC 9-18-15-1 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) A person who
35 is the registered owner or lessee of a:

36 (1) passenger motor vehicle;

37 (2) motorcycle;

38 (3) recreational vehicle; or

39 (4) vehicle registered as a truck with a declared gross weight of not
40 more than:

41 (A) eleven thousand (11,000) pounds;

42 (B) nine thousand (9,000) pounds; or

43 (C) seven thousand (7,000) pounds;

44 registered with the bureau or who makes an application for an original
45 registration or renewal registration of a vehicle may apply to the bureau
46 for a personalized license plate to be affixed to the vehicle for which
47 registration is sought instead of the regular license plate.

48 (b) A person who:

49 (1) is the registered owner or lessee of a vehicle described in
50 subsection (a); and

51 (2) is eligible to receive a license plate for the vehicle under:

- 1 (A) IC 9-18-17 (prisoner of war license plates);
- 2 (B) IC 9-18-18 (disabled veteran license plates);
- 3 (C) IC 9-18-19 (purple heart license plates);
- 4 (D) IC 9-18-20 (Indiana National Guard license plates);
- 5 (E) IC 9-18-21 (Indiana Guard Reserve license plates);
- 6 (F) IC 9-18-22 (license plates for persons with disabilities);
- 7 (G) IC 9-18-23 (amateur radio operator license plates);
- 8 (H) IC 9-18-24 (civic event license plates);
- 9 (I) IC 9-18-25 (special group recognition license plates);
- 10 (J) IC 9-18-29 (environmental license plates);
- 11 (K) IC 9-18-30 (kids first trust license plates);
- 12 (L) IC 9-18-31 (education license plates);
- 13 (M) IC 9-18-32.2 (drug free Indiana trust license plates);
- 14 (N) IC 9-18-33 (Indiana FFA trust license plates);
- 15 (O) IC 9-18-34 (Indiana firefighter license plates);
- 16 (P) IC 9-18-35 (Indiana food bank trust license plates);
- 17 (Q) IC 9-18-36 (Indiana girl scouts trust license plates);
- 18 (R) IC 9-18-37 (Indiana boy scouts trust license plates);
- 19 (S) IC 9-18-38 (Indiana retired armed forces member license
- 20 plates);
- 21 (T) IC 9-18-39 (Indiana antique car museum trust license plates);
- 22 (U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
- 23 (V) IC 9-18-41 (Indiana arts trust license plates);
- 24 (W) IC 9-18-42 (Indiana health trust license plates);
- 25 (X) IC 9-18-43 (Indiana mental health trust license plates);
- 26 (Y) IC 9-18-44 (Indiana Native American Trust license plates);
- 27 (Z) IC 9-18-45.8 (Pearl Harbor survivor license plates);
- 28 (AA) IC 9-18-46.2 (Indiana state educational institution trust
- 29 license plates);
- 30 (BB) IC 9-18-47 (Lewis and Clark bicentennial license plates);
- 31 **or**
- 32 (CC) IC 9-18-48 (Riley Children's Foundation license plates); **or**
- 33 **(DD) IC 9-18-49 (National Football League franchised**
- 34 **professional football team license plates);**
- 35 may apply to the bureau for a personalized license plate to be affixed
- 36 to the vehicle for which registration is sought instead of the regular
- 37 special recognition license plate.
- 38 SECTION 56. IC 9-18-49 IS ADDED TO THE INDIANA CODE
- 39 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 40 MAY 15, 2005]:
- 41 **Chapter 49. National Football League Franchised Professional**
- 42 **Football Team License Plates**
- 43 **Sec. 1. The bureau shall design and issue a National Football**
- 44 **League franchised football team license plate for a National**
- 45 **Football League franchised football team from which the bureau**
- 46 **secures an agreement for the production and sale of license plates.**
- 47 **A National Football League franchised football team license plate**
- 48 **shall be designed and issued as a special group recognition license**
- 49 **plate under IC 9-18-25.**
- 50 **Sec. 2. The bureau shall:**
- 51 **(1) negotiate for the purpose of entering; or**

(2) delegate the authority to enter;
 into license agreements with a professional sports franchise in
 order to design and issue a National Football League franchised
 football team license plate authorized under section 1 of this
 chapter.

Sec. 3. After December 31, 2005, a person who is eligible to
 register a motor vehicle under this title is eligible to receive a
 specified National Football League franchised football team license
 plate issued under a licensing agreement entered into under section
 2 of this chapter with a specified National Football League
 franchised football team upon doing the following:

(1) Completing an application for a specified National Football
 League franchised football team license plate.

(2) Paying the fees under section 4 of this chapter.

Sec. 4. (a) The fees for a National Football League franchised
 football team license plate are as follows:

(1) The appropriate fees under IC 9-29-5-38(d)(1),
 IC 9-29-5-38(d)(2), and IC 9-29-5-38(d)(3).

(2) An annual fee of twenty dollars (\$20).

(b) The annual fee described in subsection (a)(2) shall be:

(1) collected by the bureau; and

(2) deposited in the capital projects fund established by section
 5 of this chapter.

Sec. 5. (a) The capital projects fund is established.

(b) The treasurer of state shall invest the money in the capital
 projects fund not currently needed to meet the obligations of the
 capital projects fund in the same manner as other public funds are
 invested. Money in the fund is continuously appropriated for the
 purposes of this section.

(c) The budget director shall administer the capital projects fund.
 Expenses of administering the capital projects fund shall be paid
 from money in the capital projects fund.

(d) On:

(1) June 30 of every year after June 30, 2006; or

(2) any other date designated by the budget director;

an amount designated by the budget director shall be transferred
 from the fund to the state general fund, a capital improvement
 board of managers created by IC 36-10-9, or the designee chosen
 by the budget director under IC 5-1-17-28.

(e) Money in the fund at the end of a state fiscal year does not
 revert to the state general fund.

Sec. 6. The budget agency shall adopt rules under IC 4-22-2 to
 implement this chapter.

SECTION 57. IC 9-29-5-38 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38. (a) Except as
 provided in ~~subsection~~ subsections (c) and (d), vehicles registered
 under IC 9-18-25 are subject to the following:

(1) An appropriate annual registration fee.

(2) An annual supplemental fee of ten dollars (\$10).

(3) Any other fee or tax required of a person registering a vehicle
 under this title.

(b) The bureau shall distribute all money collected under the annual supplemental fee under subsection (a)(2) **or (d)(2)** as follows:

(1) Five dollars (\$5) from each registration is appropriated to the bureau of motor vehicles for the purpose of administering IC 9-18-25.

(2) Five dollars (\$5) from each registration shall be deposited in the state license branch fund under IC 9-29-14.

(c) A vehicle registered under IC 9-18-25 that is owned by a former prisoner of war or by the prisoner's surviving spouse is exempt from the annual registration fee and the annual supplemental fee.

(d) A motor vehicle that is registered and for which is issued a special group recognition license plate under IC 9-18-25 and IC 9-18-49 is subject to the following:

(1) An appropriate annual registration fee.

(2) An annual supplemental fee of ten dollars (\$10).

(3) Any other fee or tax required of a person registering a vehicle under this title.

(4) The annual fee of twenty dollars (\$20) imposed by IC 9-18-49-4(a)(2).

SECTION 58. IC 13-21-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A controller selected under section 9 of this chapter shall do the following:

(1) Be the official custodian of all district money **and, subject to the terms of any resolution or trust indenture under which bonds are issued under this article, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.**

(2) Be responsible to the board for the fiscal management of the district.

(3) Be responsible for the proper safeguarding and accounting of the district's money.

(4) Subject to subsection (c), issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.

(5) Make financial reports of district money and present the reports to the board for the board's approval.

(6) Prepare the district's annual budget.

(7) Perform any other duties:

(A) prescribed by the board; and

(B) consistent with this chapter.

(b) A controller selected under section 9 of this chapter:

(1) does not exercise any sovereign authority of the state; and

(2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana.

(c) The board may, by resolution, authorize the controller to make claim payments for:

(1) payroll;

(2) the state solid waste management fee imposed by IC 13-20-22-1; and

(3) certain specific vendors identified in the resolution;

without the claims being first approved by the board if before payment

the claims are approved in writing by the chairperson of the board or in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting.

SECTION 59. IC 13-21-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A board that has imposed fees under section 1 of this chapter shall establish and continuously maintain a separate fund under this section to be known as the "_____ district solid waste management fund".

(b) All fees remitted to the district under section 1 of this chapter shall be deposited in the fund.

(c) Money in the fund may be used only for the following purposes:

(1) To pay expenses of administering the fund.

(2) To pay costs associated with the development and implementation of the district plan.

(d) The controller of the district shall administer a fund established under this section. Money in the fund that is not currently needed for the purposes set forth in subsection (c) ~~may~~ **shall be deposited and** invested in the same manner as other county money ~~may be~~ **is deposited and** invested **under IC 5-13**. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a district's fiscal year does not revert to:

(1) a county general fund; or

(2) any other fund.

(e) The controller of a district shall:

(1) file an individual surety bond; or

(2) revise an existing bond;

in a sufficient amount determined under IC 5-4-1-18 to reflect the liability associated with the handling of the district's money.

SECTION 60. IC 16-44-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Except as provided in subsection (b), fees for the inspection of gasoline or kerosene shall be at the rate of ~~forty~~ **fifty** cents ~~(\$0.40)~~ **(\$0.50)** per barrel (fifty (50) gallons) on all gasoline or kerosene received in Indiana less deductions provided in this section.

(b) A fee for inspection of gasoline or kerosene may not be charged for the following:

(1) On transport or tank car shipments direct to the federal government.

(2) On gasoline or kerosene received and subsequently exported from Indiana or returned to refineries or marine or pipeline terminals in Indiana.

(c) Fees shall be paid to the state department by the person receiving gasoline or kerosene in Indiana at the time gasoline or kerosene products are received, unless the person receiving the gasoline or kerosene is licensed as a distributor under the gasoline tax law (IC 6-6-1.1). In that case, the person in receipt of the gasoline or kerosene shall do the following:

(1) Include in the person's monthly gasoline tax report a statement of all gasoline and kerosene received during the preceding calendar month on which inspection fees are due.

(2) Remit the amount of the inspection fees at the same time the monthly motor fuel tax report is due.

(d) A refiner or other person supplying gasoline or kerosene to the first receiver in Indiana may elect to pay the fees monthly on all gasoline or kerosene supplied to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is not licensed as a distributor under the gasoline tax law of Indiana (IC 6-6-1.1), the supplier shall, as a condition precedent to such election, file with the state department a corporate surety bond that meets the following conditions:

(1) Is in the form and amount that the state department determines, not to exceed two thousand dollars (\$2,000).

(2) Is conditioned that the supplier does the following:

(A) Reports all gasoline and kerosene supplied by the supplier to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1).

(B) Pays inspection fees monthly on or before the twenty-fifth day of each calendar month for the preceding calendar month.

(e) A person taking credit for gasoline or kerosene exported or returned to a refinery or terminal shall substantiate that credit in the manner that the state department reasonably requires by rule.

(f) A distributor who fails to file a monthly report and pay the tax due as required by this chapter is subject to a penalty of five percent (5%) of the amount of unpaid tax due and interest on the unpaid tax and penalty at the rate of eight percent (8%) annually. However, if a delay not exceeding ten (10) days is due to a mistake, an accident, or an oversight without intent to avoid payment, the administrator may waive the penalty and interest.

SECTION 61. IC 16-44-2-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 18.5. (a) As used in this section, "special fuel" has the meaning set forth in IC 6-6-2.5-22, except that the term does not include kerosene.**

(b) Except as provided in subsection (c), fees for the inspection of special fuel shall be at the rate of fifty cents (\$0.50) per barrel (fifty (50) gallons) on all special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana less deductions provided in this section.

(c) A fee for the inspection of special fuel may not be charged with respect to special fuel that is exempt from the special fuel tax under IC 6-6-2.5-30.

(d) The fee imposed by this chapter on special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana shall be collected and remitted to the state at the same time, by the same person, and in accordance with the same requirements for collection and remittance of the special fuels tax under IC 6-6-2.5-35.

(e) Fees collected under this section shall be deposited by the department in the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(f) A person who receives a refund of special fuel tax under

IC 6-6-2.5 is also entitled to a refund of fees paid under this section if:

(1) the fees were paid with respect to special fuel that was used for an exempt purpose described in IC 6-6-2.5-30; and

(2) the person submits to the state department of revenue a claim for a refund, in the form prescribed by the state of department of revenue, that includes the following information:

(A) Any evidence requested by the state department of revenue concerning the person's:

(i) payment of the fee imposed by this section; and

(ii) receipt of a refund of special fuel taxes from the state department of revenue under IC 6-6-2.5.

(B) Any other information reasonably requested by the state department of revenue.

The state department of revenue may make any investigation it considers necessary before refunding fees to a person.

SECTION 62. IC 21-2-21-1.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.8. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after termination of the employment of the employees by the school corporation under an existing or previous employment agreement.

(b) This section applies to each school corporation that:

(1) did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(2) issued bonds under IC 20-5-4-1.7 before April 14, 2003.

(c) In addition to the purposes set forth in section 1 of this chapter, a school corporation described in subsection (b) may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following conditions:

(1) The school corporation may issue bonds under this section only one (1) time.

(2) The school corporation must issue the bonds before July 1, 2006.

(3) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's unfunded contractual liability for retirement or severance payments as it existed on June 30, 2001.

(4) The amount of the bonds that may be issued for the purpose described in this section may not exceed:

(A) two percent (2%) of the true tax value of property in the school corporation, for a school corporation that did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(B) the remainder of:

(i) two percent (2%) of the true tax value of property in the school corporation as of the date that the school corporation issued bonds under IC 20-5-4-1.7; minus

(ii) the amount of bonds that the school corporation issued

- 1 under IC 20-5-4-1.7;
 2 for a school corporation that issued bonds under
 3 IC 20-5-4-1.7 before April 14, 2003.
- 4 **(5) Each year that a debt service levy is needed under this**
 5 **section, the school corporation shall reduce the total property**
 6 **tax levy for the school corporation's transportation, school bus**
 7 **replacement, capital projects, or art association and historical**
 8 **society funds in an amount equal to the property tax levy**
 9 **needed for the debt service under this section. The property tax**
 10 **rate for each of these funds shall be reduced each year until the**
 11 **bonds are retired.**
- 12 **(6) The school corporation shall establish a separate debt**
 13 **service fund for repayment of the bonds issued under this**
 14 **section.**
- 15 **(d) Bonds issued for the purpose described in this section shall be**
 16 **issued in the same manner as other bonds of the school**
 17 **corporation.**
- 18 **(e) Bonds issued under this section are not subject to the petition**
 19 **and remonstrance process under IC 6-1.1-20 or to the limitations**
 20 **contained in IC 36-1-15.**
- 21 SECTION 63. IC 20-12-1-2 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. (a) The Ball
 23 State University board of trustees, Indiana State University board of
 24 trustees, the trustees of Indiana University, the trustees of Purdue
 25 University, and the University of Southern Indiana board of trustees,
 26 each as to its respective institution, shall have the power and duty:
- 27 (1) to govern the disposition and method and purpose of use of the
 28 property owned, used, or occupied by the institution, including the
 29 governance of travel over and the assembly upon the property;
 30 (2) to govern, by specific regulation and other lawful means, the
 31 conduct of students, faculty, employees, and others while upon the
 32 property owned, used, or occupied by the institutions;
 33 (3) to govern, by lawful means, the conduct of its students, faculty,
 34 and employees, wherever the conduct might occur, to the end of
 35 preventing unlawful or objectionable acts that seriously threaten
 36 the ability of the institution to maintain its facilities available for
 37 performance of its educational activities or that are in violation of
 38 the reasonable rules and standards of the institution designed to
 39 protect the academic community from unlawful conduct or conduct
 40 presenting a serious threat to person or property of the academic
 41 community;
 42 (4) to dismiss, suspend, or otherwise punish any student, faculty
 43 member, or employee of the institution who violates the
 44 institution's rules or standards of conduct, after determination of
 45 guilt by lawful proceedings;
 46 (5) to prescribe the fees, tuition, and charges necessary or
 47 convenient to the furthering of the purposes of the institution and
 48 to collect the prescribed fees, tuition, and charges;
 49 (6) to prescribe the conditions and standards of admission of
 50 students upon the bases as are in its opinion in the best interests of
 51 the state and the institution;

(7) to prescribe the curricula and courses of study offered by the institution and define the standards of proficiency and satisfaction within the curricula and courses established by the institution;

(8) to award financial aid to students and groups of students out of the available resources of the institution through scholarships, fellowships, loans, remissions of fees, tuitions, charges, or other funds on the basis of financial need, excellence of academic achievement, or potential achievement or any other basis as the governing board may find to be reasonably related to the educational purposes and objectives of the institution and in the best interest of the institution and the state;

(9) to cooperate with other institutions to the end of better assuring the availability and utilization of its total resources and opportunities to provide excellent educational opportunity for all persons;

(10) to establish and carry out written policies for the investment of the funds of the institution in the manner provided by IC 30-4-3-3; ~~and~~

(11) to lease to any corporation, limited liability company, partnership, association, or individual real estate title to which is in the name of an institution or in the name of the state for the use and benefit of the leasing institution; **and**

(12) to adopt policies and standards for making property owned by the institution reasonably available to be used free of charge as locations for the production of motion pictures.

(b) A lease may be for such term and for such rental, either nominal or otherwise, as the board determines to be in the best interest of the institution. No lease shall be executed under this section for a term exceeding four (4) years unless the execution is approved by the governor and by the ~~state~~ budget agency. The universities shall be exempt from all property taxes on any real estate leased under this section, and the lessee shall be liable for property taxes on the leased real estate as if the real estate were owned by the lessee in fee simple, unless the lessee is a student living in university-owned facilities.

(c) This section shall not be construed to deny any tax exemption that a lessee would have under other laws if the lessee were the owner in fee simple of the real estate.

SECTION 64. IC 20-26-5-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22.5. (a) A school corporation may participate in the establishment of a public school foundation.**

(b) The governing body of a school corporation may receive the proceeds of a grant, a restricted gift, an unrestricted gift, a donation, an endowment, a bequest, a trust, an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, or other funds not generated from taxes levied by the school corporation to create a foundation under the following conditions:

(1) The foundation is:

(A) exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) organized as an Indiana nonprofit corporation for the purposes of providing educational funds for scholarships, teacher education, capital programs, and special programs for school corporations.

(2) Except as provided in subdivision (3), the foundation retains all rights to a donation, including investment powers. The foundation may hold a donation as a permanent endowment.

(3) The foundation agrees to do the following:

(A) Distribute the income from a donation only to the school corporation.

(B) Return a donation to the general fund of the school corporation if the foundation:

(i) loses the foundation's status as a foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(ii) is liquidated; or

(iii) violates any condition set forth in this subdivision.

(c) A school corporation may use the proceeds received under this section from a foundation only for educational purposes of the school corporation described in subsection (b)(1)(B).

(d) The governing body of the school corporation may appoint members to the foundation.

(e) The treasurer of the governing body of the school corporation may serve as the treasurer of the foundation.

SECTION 65. IC 22-4-37-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Should the Congress of the United States ~~either amend, or repeal, or authorize the~~ **implementation of a demonstration project under** 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of ~~either or all of~~ said statutes, or should ~~either any~~ or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department of workforce development are or no longer shall be available for such purposes, **or should the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress,** or should employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department of workforce development, then, **and in such case** beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be **established by the department of workforce development and may not exceed three and one-tenth one-half percent (3.1%) (3.5%)** per year of each such employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), ~~and~~ IC 22-4-11-3, **and IC 22-4-11-3.3,** to the rate of contribution, as determined for such

year in which such change occurs, shall be added ~~four-tenths of one not more than eight-tenths percent (0.4%)~~ **(0.8%) as prescribed by the department of workforce development.**

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be paid into such fund. If the commissioner shall determine that as of January 1 of any year there is an excess in said fund over the money and funds required to be disbursed therefrom for the purposes thereof for such year, then and in such cases an amount equal to such excess, as determined by the commissioner, shall be transferred to and become part of the unemployment insurance benefit fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this section.

SECTION 66. IC 36-7-31-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. A commission may establish as part of a professional sports development area any facility:

(1) that is used in the training of a team engaged in professional sporting events; or

(2) that is:

(A) financed in whole or in part by:

(i) notes or bonds issued by a political subdivision or issued under IC 36-10-9 or IC 36-10-9.1; or

(ii) a lease or other agreement under IC 5-1-17; and

(B) used to hold a professional sporting event.

The tax area may include a facility described in this section and any parcel of land on which the facility is located. An area may contain noncontiguous tracts of land within the county.

SECTION 67. IC 36-7-31-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) A tax area must be initially established before July 1, 1999, according to the procedures set forth for the establishment of an economic development area under IC 36-7-15.1. A tax area may be changed **(including to the exclusion or inclusion of a facility described in this chapter)** or the terms governing the tax area **may be** revised in the same manner as the establishment of the initial tax area. **However, after May 14, 2005:**

(1) a tax area may be changed only to include the site or future site of a facility that is or will be the subject of a lease or other agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26; and

(2) the terms governing a tax area may be revised only with respect to a facility described in subdivision (1).

(b) In establishing **or changing the tax area or revising the terms governing** the tax area, the commission must make the following findings instead of the findings required for the establishment of

economic development areas:

(1) That a project to be undertaken or that has been undertaken in the tax area is for a facility at which a professional sporting event **or a convention or similar event** will be held.

(2) That the project to be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(3) That the project to be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to enable the county to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 68. IC 36-7-31-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports development area fund established for the county. The allocation provision must apply to the entire tax area. The resolution must provide that the tax area terminates not later than December 31, 2027.

(b) All of the salary, wages, bonuses, and other compensation that are:

- (1) paid during a taxable year to a professional athlete for professional athletic services;
- (2) taxable in Indiana; and
- (3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) **Except as provided by section 14.1 of this chapter**, the total amount of state revenue captured by the tax area may not exceed five million dollars (\$5,000,000) per year for twenty (20) consecutive years.

(d) The resolution establishing the tax area must designate the facility and the facility site for which the tax area is established and covered taxes will be used.

(e) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 69. IC 36-7-31-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: **Sec. 14.1. (a) The budget director appointed under IC 4-12-1-3 may determine that, commencing July 1, 2007, there may be captured in the tax area up to eleven million dollars (\$11,000,000) per year in addition to the up to five million dollars (\$5,000,000) of state revenue to be captured by the tax area under section 14 of this chapter, for up to thirty-four (34) consecutive years. The budget director's determination must specify that the termination date of the tax area for purposes of the collection of the additional eleven million dollars (\$11,000,000) per year is extended to not later than:**

(1) January 1, 2041; or

(2) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26.

Following the budget director's determination, and commencing July 1, 2007, the maximum total amount of revenue captured by the tax area for years ending before January 1, 2041, shall be sixteen million dollars (\$16,000,000) per year.

(b) The additional revenue captured pursuant to a determination under subsection (a) shall be distributed to the capital improvement board or its designee. So long as there are any current or future obligations owed by the capital improvement board to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board or its designee shall deposit the additional revenue received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

SECTION 70. IC 36-7-31-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 21. **Except as provided in section 14.1 of this chapter**, the capital improvement board may use money distributed from the fund only to construct and equip a capital improvement that is used for a professional sporting event, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

SECTION 71. IC 36-7-31-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 23. This chapter expires December 31, ~~2027~~ 2040.

SECTION 72. IC 36-7-31.3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

(2) before January 1, 2005, **in the case of:**

(A) ~~in the case of~~ a second class city; or

(B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. **Before May 15, 2005**, a tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. **After May 14, 2005, a tax area may not be changed and the terms governing a tax area may not be revised.** Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 73. IC 36-7.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 7.5. NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY

Chapter 1. Definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3 in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.

Sec. 4. "Airport development authority" refers to an airport development authority established under IC 8-22-3.7 in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

Sec. 5. "Bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.

Sec. 6. "Commuter transportation district" refers to a commuter

1 transportation district that:

2 (1) is established under IC 8-5-15; and

3 (2) has among its purposes the maintenance, operation, and
4 improvement of passenger service over the Chicago, South
5 Shore, and South Bend Railroad and any extension of that
6 railroad.

7 Sec. 7. "Commuter transportation district project" means a
8 project that can be financed with the proceeds of bonds issued by
9 a commuter transportation district under IC 8-5-15.

10 Sec. 8. "Development authority" refers to the northwest Indiana
11 regional development authority established by IC 36-7.5-2-1.

12 Sec. 9. "Development board" refers to the governing body
13 appointed under IC 36-7.5-2-3 for a development authority.

14 Sec. 10. "Economic development project" means the following:

15 (1) An economic development project described in
16 IC 6-3.5-7-13.1(c).

17 (2) A dredging, sediment removal, or channel improvement
18 project.

19 Sec. 11. "Eligible county" refers to the following counties:

20 (1) A county having a population of more than four hundred
21 thousand (400,000) but less than seven hundred thousand
22 (700,000).

23 (2) A county having a population of more than one hundred
24 forty-five thousand (145,000) but less than one hundred
25 forty-eight thousand (148,000).

26 Sec. 12. "Eligible political subdivision" means the following:

27 (1) An airport authority.

28 (2) A commuter transportation district.

29 (3) A regional bus authority under IC 36-9-3-2(c).

30 (4) A shoreline development commission under IC 36-7-13.5.

31 Sec. 13. "Project" means an airport authority project, a
32 commuter transportation district project, an economic
33 development project, a regional bus authority project, or a
34 shoreline development commission project.

35 Sec. 14. "Regional bus authority" means a regional
36 transportation authority operating as a regional bus authority
37 under IC 36-9-3-2(c).

38 Sec. 15. "Regional bus authority project" means a project that
39 can be financed with the proceeds of bonds issued by a regional bus
40 authority under IC 36-9-3.

41 Sec. 16. "Shoreline development commission" means the
42 commission established by IC 36-7-13.5-2.

43 Sec. 17. "Shoreline development commission project" means a
44 project that can be financed with the proceeds of bonds issued by
45 a shoreline development commission.

46 Chapter 2. Development Authority and Board

47 Sec. 1. The northwest Indiana regional development authority is
48 established as a separate body corporate and politic to carry out
49 the purposes of this article by:

50 (1) acquiring, constructing, equipping, owning, leasing, and
51 financing projects and facilities for lease to or for the benefit of

1 eligible political subdivisions under this article; and
 2 (2) funding and developing the Gary/Chicago International
 3 Airport expansion and other airport authority projects,
 4 commuter transportation district and other rail projects and
 5 services, regional bus authority projects and services, shoreline
 6 development projects and activities, and economic development
 7 projects in northwestern Indiana.

8 **Sec. 2.** The development authority may carry out its powers and
 9 duties under this article in an eligible county.

10 **Sec. 3. (a)** The development authority is governed by the
 11 development board appointed under this section.

12 **(b)** The development board is composed of the following seven (7)
 13 members:

14 **(1)** Two (2) members appointed by the governor. One (1) of the
 15 members appointed by the governor under this subdivision
 16 must be an individual nominated under subsection (d). The
 17 members appointed by the governor under this subdivision
 18 serve at the pleasure of the governor.

19 **(2)** The following members from a county having a population
 20 of more than four hundred thousand (400,000) but less than
 21 seven hundred thousand (700,000):

22 **(A)** One (1) member appointed by the mayor of the largest
 23 city in the county in which a riverboat is located.

24 **(B)** One (1) member appointed by the mayor of the second
 25 largest city in the county in which a riverboat is located.

26 **(C)** One (1) member appointed by the mayor of the third
 27 largest city in the county in which a riverboat is located.

28 **(D)** One (1) member appointed jointly by the county
 29 executive and the county fiscal body. A member appointed
 30 under this clause may not reside in a city described in clause
 31 **(A), (B), or (C).**

32 **(3)** One (1) member appointed jointly by the county executive
 33 and county fiscal body of a county having a population of more
 34 than one hundred forty-five thousand (145,000) but less than
 35 one hundred forty-eight thousand (148,000).

36 **(c)** A member appointed to the development board must have
 37 knowledge and at least five (5) years professional work experience
 38 in at least one (1) of the following:

39 **(1)** Rail transportation or air transportation.

40 **(2)** Regional economic development.

41 **(3)** Business or finance.

42 **(d)** The mayor of the largest city in a county having a population
 43 of more than one hundred forty-five thousand (145,000) but less
 44 than one hundred forty-eight thousand (148,000) shall nominate
 45 three (3) residents of the county for appointment to the
 46 development board. One (1) of the governor's initial appointments
 47 under subsection (b)(1) must be an individual nominated by the
 48 mayor. At the expiration of the member's term, the mayor of the
 49 second largest city in the county shall nominate three (3) residents
 50 of the county for appointment to the development board. One (1)
 51 of the governor's appointments under subsection (b)(1) must be an

individual nominated by the mayor. Thereafter, the authority to nominate the three (3) members from which the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

(1) The initial member appointed by the governor who is not nominated under section 3(d) of this chapter shall serve a term of four (4) years.

(2) The initial member appointed by the governor who is nominated under section 3(d) of this chapter shall serve a term of two (2) years.

(3) The initial member appointed under section 3(b)(2)(D) of this chapter shall serve a term of three (3) years.

(4) The initial member appointed under section 3(b)(3) of this chapter shall serve a term of three (3) years.

(5) The initial members appointed under section 3(b)(2)(A) through 3(b)(2)(C) of this chapter shall serve a term of two (2) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 5. (a) The member appointed by the governor under section 3(b)(1) of this chapter but not nominated under section 3(d) of this chapter shall serve as chair of the development board until January

1 **2013. At the election under subsection (b) in 2013 and each year**
 2 **thereafter, the chair shall be elected from among the members of**
 3 **the development board.**

4 **(b) In January of each year, the development board shall hold an**
 5 **organizational meeting at which the development board shall elect**
 6 **the following officers from the members of the development board:**

7 **(1) After December 31, 2012, a chair.**

8 **(2) A vice chair.**

9 **(3) A secretary-treasurer.**

10 **(c) Not more than two (2) members from any particular county**
 11 **may serve as an officer described in subsection (a) or elected under**
 12 **subsection (b). The affirmative vote of at least five (5) members of**
 13 **the development board is necessary to elect an officer under**
 14 **subsection (b).**

15 **(d) An officer elected under subsection (b) serves from the date**
 16 **of the officer's election until the officer's successor is elected and**
 17 **qualified.**

18 **Sec. 6. (a) The development board shall meet at least quarterly.**

19 **(b) The chair of the development board or any two (2) members**
 20 **of the development board may call a special meeting of the**
 21 **development board.**

22 **(c) Five (5) members of the development board constitute a**
 23 **quorum.**

24 **(d) The affirmative votes of at least five (5) members of the**
 25 **development board are necessary to authorize any action of the**
 26 **development authority.**

27 **(e) Notwithstanding any other provision of this article, the**
 28 **minimum of at least five (5) affirmative votes required under**
 29 **subsection (d) to take any of the following actions must include the**
 30 **affirmative vote of the member appointed by the governor who is**
 31 **not nominated under section 3(d) of this chapter:**

32 **(1) Making loans, loan guarantees, or grants or providing any**
 33 **other funding or financial assistance for projects.**

34 **(2) Acquiring or condemning property.**

35 **(3) Entering into contracts.**

36 **(4) Employing an executive director or any consultants or**
 37 **technical experts.**

38 **(5) Issuing bonds or entering into a lease of a project.**

39 **Sec. 7. The development board may adopt the bylaws and rules**
 40 **that the development board considers necessary for the proper**
 41 **conduct of the development board's duties and the safeguarding of**
 42 **the development authority's funds and property.**

43 **Sec. 8. (a) The development authority must comply with**
 44 **IC 5-16-7 (common construction wage), IC 5-22 (public**
 45 **purchasing), IC 36-1-12 (public work projects), and any applicable**
 46 **federal bidding statutes and regulations. An eligible political**
 47 **subdivision that receives a loan, a grant, or other financial**
 48 **assistance from the development authority or enters into a lease**
 49 **with the development authority must comply with applicable**
 50 **federal, state, and local public purchasing and bidding law and**
 51 **regulations. However, a purchasing agency (as defined in**

IC 5-22-2-25) of an eligible political subdivision may:

(1) assign or sell a lease for property to the development authority; or

(2) enter into a lease for property with the development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the authority, the authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development authority shall pay the cost of any audit by the state board of accounts.

Chapter 3. Development Authority Powers and Duties

Sec. 1. The development authority shall do the following:

(1) Assist in the coordination of local efforts concerning projects.

(2) Assist a commuter transportation district, an airport authority, a shoreline development commission, and a regional bus authority in coordinating regional transportation and economic development efforts.

(3) Fund projects as provided in this article.

(4) Fund bus services (including fixed route services and

flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

Sec. 2. (a) The development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county.

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

(B) An airport authority or airport development authority.

(C) A shoreline development commission.

(D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county.

(8) Provide funding to assist an airport authority located in an eligible county in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(9) Provide funding to assist a shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(10) Provide funding for economic development projects in an eligible county.

(11) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the

development authority, any real or personal property located in an eligible county.

(12) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(13) Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(14) Sue, be sued, plead, and be impleaded.

(15) Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

(16) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(17) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(18) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(19) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

Sec. 3. The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 4. (a) The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the

development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall before January 1, 2008, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.

Chapter 4. Financing; Issuance of Bonds; Leases

Sec. 1. (a) The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

(1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.

(2) County economic development income tax revenue received under IC 6-3.5-7 by a county or city and transferred by the county or city to the fund.

(3) Amounts distributed under IC 8-15-2-14.7.

(4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.

(5) Funds received from the federal government.

(6) Appropriations to the fund by the general assembly.

(7) Other local revenue appropriated to the fund by a political subdivision.

(8) Gifts, donations, and grants to the fund.

(c) On the date the development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall establish and administer two (2) accounts within the development authority fund. The accounts shall be the general account and the lease rental account. After the accounts are established, all money transferred to the development authority fund under subsections (b)(1), (b)(2), and (b)(4) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the development authority.

(d) Notwithstanding subsection (c), if the amount of all money transferred to the development authority fund under subsections (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:

(1) one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article; then all or a portion of the excess may instead be deposited in the general account.

(e) All other money and revenues of the development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) The development authority fund shall be administered by the development authority.

(g) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

Sec. 2. (a) Beginning in 2006, the fiscal officer of each city and county described in IC 36-7.5-2-3(b) (other than the two (2) largest cities in a county described in IC 36-7.5-2-3(b)(1)) shall each transfer three million five hundred thousand dollars (\$3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

(b) The following apply to the transfers required by subsection (a):

(1) The transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.

(2) After December 31, 2005, each fiscal officer shall transfer eight hundred seventy-five thousand dollars (\$875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.

(3) The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any county economic development income tax revenue received under IC 6-3.5-7 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

Sec. 3. (a) Subject to subsection (h), the development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or
 (3) funding or refunding bonds issued under this chapter or IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds shall be authorized by a resolution of the development board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds only to the Indiana development finance authority established by IC 4-4-11-4 upon the terms determined by the development board and the Indiana development finance authority.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds

requires payment of the common construction wage required by IC 5-16-7.

Sec. 4. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 5. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;

(3) set forth the rights and remedies of bondholders and trustees; and

(4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

(1) lease all or a portion of land or a project or projects to the development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a portion of land or a project or projects to the development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from the development authority

to an eligible political subdivision:

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;
- (3) may contain provisions:
 - (A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and
 - (B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;
- (4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;
- (5) must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;
- (6) may be entered into before acquisition or construction of a project;
- (7) may provide that the eligible political subdivision shall agree to:
 - (A) pay any taxes and assessments on the project;
 - (B) maintain insurance on the project for the benefit of the development authority;
 - (C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and
 - (D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and
- (8) shall provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established by section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:
 - (A) net revenues of the project;
 - (B) any other funds available to the eligible political subdivision; or
 - (C) both sources described in clauses (A) and (B).

Sec. 8. This chapter contains full and complete authority for leases between the development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political

subdivision is required to enter into any lease, except as prescribed in this article.

Sec. 9. If the lease provides for a project or improvements to a project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 10. The development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

Sec. 11. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to the development authority, one (1) or more projects or portions of a project or land upon which a project is located or is to be constructed.

(b) Any lease of all or a portion of a project by an eligible political subdivision to the development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to the development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

Sec. 12. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

Sec. 13. (a) All:

- (1) property owned by the development authority;
- (2) revenues of the development authority; and
- (3) bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-2-1 and other securities registration statutes.

Sec. 14. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 15. An action to contest the validity of bonds to be issued

under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.

Sec. 16. (a) This section applies if:

- (1) a city or county described in IC 36-7.5-2-3 fails to make a transfer or a part of a transfer required by section 2 of this chapter; and
- (2) the development authority has bonds or other debt or lease obligations outstanding.

(b) The treasurer of state shall do the following:

- (1) Deduct from amounts otherwise payable to the city or town under IC 4-33-12 or IC 4-33-13 an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the city or county failed to make.
- (2) Pay the amount deducted under subdivision (1) to the development authority.

Sec. 17. (a) If there are bonds outstanding that have been issued under this article and are not secured by a lease, or if there are leases in effect under this article, the general assembly also covenants that it will not reduce the amount required to be transferred from the counties and cities to the development authority under section 2 of this chapter below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

- (1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or
- (2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a).

SECTION 74. IC 36-9-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A fiscal body of a county or municipality may, by ordinance, establish a regional transportation authority (referred to as "the authority" in this chapter) for the purpose of acquiring, improving, operating, maintaining, financing, and generally supporting a public transportation system that operates within the boundaries of an area designated as a transportation planning district by the Indiana department of transportation. However, only one (1) public transportation authority may be established within an area designated as a transportation planning district by the Indiana department of transportation.

(b) The ordinance establishing the authority must include an effective date and a name for the authority. Except as provided in subsection (c), the words "regional transportation authority" must be included in the name of the authority.

(c) The words "regional bus authority" must be included in the name of an authority that includes a county having a population of

more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

SECTION 75. IC 36-10-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 6. The board may, acting under the title "capital improvement board of managers of _____ County", do the following:

- (1) Acquire by grant, purchase, gift, devise, lease, condemnation, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and all property rights and interests necessary or convenient for the exercise of its powers under this chapter.
- (2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement built or acquired by the board under this chapter.
- (3) Control and operate a capital improvement, including letting concessions and leasing all or part of the capital improvement.
- (4) Fix charges and establish rules governing the use of a capital improvement.
- (5) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or political subdivisions, foundations, and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, and any political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.
- (6) Exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.
- (7) Receive and collect money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes.
- (8) Receive excise taxes, income taxes, and ad valorem property taxes and expend the money for operating expenses, payments of principal or interest of bonds or notes issued under this chapter, and for all or part of the cost of a capital improvement.
- (9) Retain the services of architects, engineers, accountants, attorneys, and consultants and hire employees upon terms and conditions established by the board, so long as any employees or members of the board authorized to receive, collect, and expend money are covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.
- (10) Provide coverage for its employees under IC 22-3 and IC 22-4.
- (11) Purchase public liability and other insurance considered desirable.
- (12) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.
- (13) Sue and be sued in the name and style of "capital improvement board of managers of _____ County" (including the name of the county), service of process being had by leaving a copy at

the board's office.

(14) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement, including the convention and visitor industry, and serve the commercial, industrial, and cultural interests of Indiana and its citizens. The board may assist, cooperate, and fund governmental, public, and private agencies and groups for these purposes.

(15) Enter into leases of capital improvements and sell or lease property under **IC 5-1-17 or IC 36-10-9.1.**

SECTION 76. IC 36-12-7-8, AS ADDED BY HEA 1288-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) ~~For As used in this section:~~

(1) "county fiscal body" means the fiscal body of a county in which a private donation library is located;

(2) "library board" means a library board established under IC 20-14 in a county in which a private donation library is located; and

(3) "private donation library" means a public library: established:

~~(1)~~ **(A) established** by private donation;

~~(2)~~ **(B) located** in a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

~~(3)~~ **(C) that contains** at least twenty-five thousand (25,000) volumes;

~~(4)~~ **(D) that has real property** valued at at least one hundred thousand dollars (\$100,000); and

~~(5)~~ **(E) that is open and free to the residents of the city.**

~~a tax shall be levied and collected annually by the city according to IC 6-1-1.~~

(b) ~~The city legislative body~~ **library board** shall:

~~(1) levy the a tax required under subsection (a) IC 6-1.1 in an amount not less than sixty-seven hundredths of one cent (\$0.0067) and not more than one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of the assessed valuation of all the real and personal property in the city. When the city levies the tax, the library under subsection (a) shall be treated as if the library were a public library for purposes of IC 6-1.1-18.5-13; and the legislative body may increase the legislative body's levy to the same extent as a public library under IC 6-1.1-18.5-13; county;~~

(2) keep the tax levied under subdivision (1) separate from all other funds of the library board; and

(3) use the tax levied under subdivision (1):

(A) if the membership of the trustees of the private donation library includes at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, for distributions of the full amounts of the tax received to the trustees of the private donation library at the time the tax is received by the library board; or

(B) if the membership of the trustees of the private donation library does not include at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, at the discretion of the library board for:

- (i) library board purposes; or
- (ii) quarterly distributions to the trustees of the private donation library.

(c) If requested by the trustees of the private donation library, the library board shall designate a member of the library board or appoint an individual to serve as a trustee of the private donation library. If requested by the trustees of the private donation library, the county fiscal body shall appoint an individual to serve as a trustee of the private donation library.

(d) The trustees of the private donation library shall annually submit a budget to the library board.

~~(c)~~ (e) The tax shall be paid to the trustees of the private donation library. The trustees shall expend the tax amounts received under subsection (b)(3)(A) or (b)(3)(B)(ii) for the support, operation, and maintenance of the private donation library. The trustees shall:

(1) keep the tax money separate from all other funds; ~~The trustees shall~~

(2) record:

~~(1)~~ (A) the amount of taxes money received;

~~(2)~~ (B) to whom and when the money is paid out; and

~~(3)~~ (C) for what purpose the money is used;

in a book kept by the trustees; ~~The trustees shall and~~

(3) make an annual report of the matters under this subsection referred to in subdivision (2) to the legislative body of the city library board.

(f) For purposes of the property tax levy limits under IC 6-1.1-18.5, the tax levied by the library board under subsection (b)(1) is not included in the calculation of the maximum permissible property tax levy for the public library.

SECTION 77. IC 6-9-12-9 IS REPEALED [EFFECTIVE MAY 15, 2005].

SECTION 78. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding the effective dates included in HEA 1003-2005, the following provisions take effect February 9, 2005, and not July 1, 2005:

(1) SECTIONS 66 through 85 of HEA 1003-2005.

(2) SECTIONS 102 through 110 of HEA 1003-2005.

(3) SECTION 112 of HEA 1003-2005.

(b) The actions taken by the Indiana economic development corporation to administer IC 6-3.1-13 and IC 6-3.1-26, both as amended by HEA 1003-2005, after February 8, 2005, and before the effective date of this act, are legalized and validated.

SECTION 79. [EFFECTIVE JULY 1, 2005] (a) The Indiana department of administration shall, before January 1, 2006, adopt policies and standards under IC 4-13-1-4(16), as added by this act, for using state owned property as locations for making motion pictures.

1 **(b) This SECTION expires January 2, 2006.**

2 SECTION 80. [EFFECTIVE JULY 1, 2005] **(a) IC 6-1.1-12-34.5, as**
 3 **added by this act, applies to property tax assessments made after**
 4 **December 31, 2005.**

5 **(b) IC 6-1.1-12-35.5 and IC 6-1.1-12-36, both as amended by this**
 6 **act, apply to property tax assessments made after December 31,**
 7 **2005.**

8 SECTION 81. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-23-1, as**
 9 **amended by this act, applies only to property taxes first due and**
 10 **payable after December 31, 2005.**

11 SECTION 82. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-1-11 and**
 12 **IC 6-1.1-31-7, both as amended by this act, apply only to property**
 13 **taxes first due and payable after December 31, 2006.**

14 SECTION 83. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-45, as**
 15 **added by this act, applies to assessment dates occurring after**
 16 **February 28, 2006, for property taxes first due and payable after**
 17 **December 31, 2006.**

18 SECTION 84. [EFFECTIVE JULY 1, 2005] **IC 36-12-7-8, as**
 19 **amended by this act, applies only to property taxes first due and**
 20 **payable after December 31, 2005.**

21 SECTION 85. [EFFECTIVE UPON PASSAGE] **Notwithstanding**
 22 **the provisions in IC 6-3.5-6 that indicate that an ordinance**
 23 **establishing or increasing the rate of a county option income tax in**
 24 **2005 must be adopted before April 1, 2005, an ordinance adopted**
 25 **in 2005 to establish an additional rate under IC 6-3.5-6-27, as**
 26 **added by this act, may be adopted before June 1, 2005. An**
 27 **ordinance under this SECTION must be adopted in the same**
 28 **manner as an ordinance under IC 6-3.5-6. An ordinance adopted**
 29 **under this SECTION is effective on the later of the following:**

30 **(1) July 1, 2005.**

31 **(2) Fifteen (15) regular business days after the department of**
 32 **state revenue receives a certified copy of the ordinance from**
 33 **the county auditor.**

34 SECTION 86. [EFFECTIVE UPON PASSAGE] **Notwithstanding**
 35 **the provisions in IC 6-3.5-6 that indicate that an ordinance**
 36 **establishing or increasing the rate of a county option income tax in**
 37 **2005 must be adopted before April 1, 2005, an ordinance adopted**
 38 **in 2005 to establish an additional rate under IC 6-3.5-6-28, as**
 39 **added by this act, may be adopted before June 1, 2005. An**
 40 **ordinance under this SECTION must be adopted in the same**
 41 **manner as an ordinance under IC 6-3.5-6. An ordinance adopted**
 42 **under this SECTION is effective on the later of the following:**

43 **(1) July 1, 2005.**

44 **(2) Fifteen (15) regular business days after the department of**
 45 **state revenue receives a certified copy of the ordinance from**
 46 **the county auditor.**

47 SECTION 87. [EFFECTIVE UPON PASSAGE] **(a)**
 48 **Notwithstanding any other law, the legislative body of each unit (as**
 49 **defined in IC 36-1-2-23) that contains the geographic area of an**
 50 **enterprise zone shall, before December 1, 2005, adopt and forward**
 51 **to the enterprise zone board a resolution containing the legislative**

body's recommendation as to whether the zone should:

(1) continue in existence, subject to the renewal schedule set forth in IC 4-4-6.1-3 of this chapter; or

(2) be terminated effective December 31, 2005.

A legislative body that fails to adopt a resolution under this subsection is considered to have adopted a resolution recommending the termination of the zone for purposes of subsection (b).

(b) Notwithstanding any other law, if the legislative body of a unit adopts a resolution recommending the termination of an enterprise zone under subsection (a)(2), that enterprise zone is terminated effective December 31, 2005.

(c) This SECTION expires July 1, 2006.

SECTION 88. [EFFECTIVE JULY 1, 2005] Not later than June 30, 2007, Ivy Tech State College shall enter into a lease, after review by the state budget committee and approval by the budget agency, with the owners of the Fort Wayne Regional Public Safety Center to be constructed after July 1, 2005, in the Southtown Community Revitalization Enhancement District to use the Fort Wayne Regional Public Safety Center to further its partnership with the Northeast Indiana Workforce Investment Board, the Regional Anthis Career Center, the Indiana National Guard, Indiana University-Purdue University at Fort Wayne, and other area institutions to allow the Fort Wayne Regional Public Safety Center to offer public safety related degree programs. The lease may not exceed a term that ends before July 1, 2022, or provide for a lease rental payment, excluding a reasonable allowance for maintenance and repair services, that exceeds one million dollars (\$1,000,000) in any state fiscal year covered by the lease.

SECTION 89. [EFFECTIVE JULY 1, 2005] The general assembly finds the following:

(1) The eligible counties (as defined in IC 36-7.5-1-11, as added by this act) face unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type than those faced by other units of local government in Indiana.

(2) A unique approach is required to fully take advantage of the economic development potential of the Chicago, South Shore, and South Bend Railway and the Gary/Chicago International Airport and the Lake Michigan shoreline.

(3) The powers and responsibilities provided to the northwest Indiana regional development authority established by IC 36-7.5-2-1, as added by this act, are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air, rail, and bus transportation services, projects, and facilities, shoreline development projects, and economic development projects in the eligible counties.

SECTION 90. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana gaming commission established under IC 4-33.

(b) The commission shall study alternative forms of gaming to determine if other forms of gaming would be beneficial for Indiana. The commission may include the following in the study:

- (1) New games or trends in gaming that might be compatible with Indiana's existing gaming industry.
- (2) Estimates of the amount of revenue that could be generated from different gaming alternatives.
- (3) The estimated impact that gaming alternatives would have on existing gaming revenues.

(c) The commission shall report its findings to the director of the office of management and budget on or before October 1, 2005. The commission shall also provide its report to the general assembly in an electronic format under IC 5-14-6.

(d) This SECTION expires January 1, 2006.

SECTION 91. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-7-5 and IC 6-3.5-7-6, the county council of an eligible county (as defined in IC 36-7.5-1-11, as added by this act) may after the effective date of this act but before July 1, 2005, adopt an ordinance to impose or increase the county economic development income tax under IC 6-3.5-7, with the imposition of the tax or the increase in the tax rate to take effect July 1, 2005.

(b) If the county council of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) adopts an ordinance under this SECTION before July 1, 2005, to increase the county's economic development income tax rate, then notwithstanding IC 6-3.5-7-11 or any other provision of IC 6-3.5-7 the initial certified distribution of the tax revenue that results from the tax rate increase shall be distributed to the county treasurer from the account established for the county under IC 6-3.5-7 according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county adopts the ordinance to increase the tax rate:

- (1) One-fourth (1/4) on October 1 of the year in which the ordinance to increase the tax rate was adopted.
- (2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance to increase the tax rate was adopted.
- (3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.
- (4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

(c) This SECTION expires January 1, 2007.

SECTION 92. [EFFECTIVE MAY 15, 2005] (a) If a member of the board of directors of the Indiana stadium and convention building authority to be appointed under IC 5-1-17-7(a)(3) is not appointed for the initial term on or before June 30, 2005, the governor shall appoint that member for the initial term.

(b) This SECTION expires July 1, 2006.

SECTION 93. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-18-49-6, as added by this act, the budget

1 agency shall carry out the duties imposed upon it by IC 9-18-49-6,
 2 as added by this act, under interim written guidelines approved by
 3 the director of the budget agency.

4 (b) This SECTION expires the earlier of the following:

5 (1) The date rules are adopted under IC 9-18-49-6.

6 (2) December 31, 2006.

7 SECTION 94. [EFFECTIVE MAY 15, 2005] The general assembly
 8 finds the following:

9 (1) Marion, Boone, Johnson, Hamilton, Hancock, Hendricks,
 10 Morgan, and Shelby counties, and certain municipalities
 11 located in those counties, face unique and distinct challenges
 12 and opportunities related to the economic development issues
 13 associated with the construction and maintenance of a
 14 world-class convention center and stadium facility in
 15 Indianapolis.

16 (2) A unique approach is required to ensure that these counties
 17 have sufficient revenue sources to allow them to meet these
 18 challenges and opportunities.

19 (3) The powers and responsibilities provided to these counties
 20 and to the Indiana stadium and convention building authority
 21 created by this act are appropriate and necessary to carry out
 22 the public purposes of encouraging and fostering economic
 23 development in central Indiana and constructing a world-class
 24 convention center and stadium facility in Indianapolis.

25 (4) The retention of a National Football League franchised
 26 professional football team in Indianapolis poses unique
 27 challenges due to the need for development of a world- class
 28 football stadium and related infrastructure that would not be
 29 needed apart from the needs related to the retention of a
 30 National Football League franchised professional football team
 31 in Indianapolis.

32 (5) The retention of a National Football League franchised
 33 professional football team in Indianapolis is critical to
 34 successful economic development in Indianapolis and is a
 35 public purpose.

36 (6) Encouragement of economic development in Indianapolis
 37 will:

38 (A) generate significant economic activity, a substantial
 39 portion of which results from persons residing outside
 40 Indiana, which may attract new businesses and encourage
 41 existing businesses to remain or expand in Indianapolis;

42 (B) promote the consolidated city to residents outside
 43 Indiana, which may attract residents outside Indiana and
 44 new businesses to relocate to the Indianapolis;

45 (C) protect and increase state and local tax revenues; and

46 (D) encourage overall economic growth in Indianapolis and
 47 in Indiana.

48 (7) Indianapolis faces unique challenges in the development of
 49 infrastructure and other facilities necessary to promote
 50 economic development as a result of its need to rely on sources
 51 of revenue other than property taxes, due to the large number

of tax exempt properties located in Indianapolis because Indianapolis is the seat of government, the home to multiple institutions of higher education, and the site of numerous state and regional nonprofit corporations.

(8) Economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit.

SECTION 95. [EFFECTIVE JULY 1, 2005] There is appropriated to Ivy Tech State College three hundred thousand dollars (\$300,000) from the state general fund for its use for A&E expenses for planning of the Logansport campus during the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 96. [EFFECTIVE UPON PASSAGE] (a) The following definitions apply throughout this SECTION:

(1) "2002 liability" means the amount of property taxes imposed on a homestead first due and payable in 2002.

(2) "2003 increase" means the amount by which the 2003 liability exceeds the 2002 liability.

(3) "2003 liability" means the amount of property taxes imposed on a homestead first due and payable in 2003.

(4) "Fiscal body" has the meaning set forth in IC 36-1-2-6.

(5) "Homestead" has the meaning set forth in IC 6-1.1-20.9-1.

(6) "Liability" means liability for the taxes imposed on a homestead under IC 6-1.1 determined after application of all credits and deductions under IC 6-1.1 but does not include any interest or penalty imposed under IC 6-1.1.

(7) "Qualifying homestead" means a homestead with respect to which the 2003 increase:

(A) exceeds the 2002 liability; and

(B) is at least five hundred dollars (\$500).

(b) If the county fiscal body adopts an ordinance before July 1, 2005, to authorize the application of the credit under this SECTION, a person is entitled to a credit against the person's liability with respect to the person's qualifying homestead located in the county for property taxes first due and payable in each of the years listed in subdivision (2) in the amount of the product of:

(1) the 2003 increase; multiplied by

(2) the percentage from the following table corresponding to the year in which property taxes are first due and payable:

YEAR	PERCENTAGE
2005	80%
2006	60%
2007	40%
2008	20%

(c) A person is not required to file an application for the credit under this SECTION. The county auditor shall:

(1) identify homesteads in the county eligible for the credit under this SECTION; and

(2) apply the credit under this SECTION to the liability.

(d) The county auditor and county treasurer may apply the credit under this SECTION for property taxes first due and

1 payable in 2005 by adjustment of the statement for the property tax
2 installment due November 10, 2005.

3 (e) A political subdivision may use any source of revenue
4 available to the political subdivision to offset a revenue loss that
5 would otherwise result from the application of credits under this
6 SECTION.

7 (f) A political subdivision may not appeal for an excessive levy
8 in a year succeeding a year in which a credit under this SECTION
9 applies to make up for a revenue loss that results from the
10 application of the credit.

11 (g) A county fiscal body may not provide a credit under this
12 SECTION in the same year that the county fiscal body also
13 provides a property tax credit for homesteads under IC 6-1.1-20.4
14 or IC 6-1.1-20.6.

15 (h) A county auditor or county treasurer may not apply the
16 credit under this SECTION in the same year that a credit for
17 homesteads is applied under IC 6-1.1-20.4 or IC 6-1.1-20.6.

18 SECTION 97. An emergency is declared for this act.

(Reference is to EHB 1120 as reprinted April 7, 2005.)

Conference Committee Report
on
Engrossed House Bill 1120

Signed by:

Representative Espich
Chairperson

Senator Kenley

Representative Bauer

Senator Hume

House Conferees

Senate Conferees